*Volume XLI]* *December, 1926* *[Number 4*

# POLITICAL SCIENCE QUARTERLY

## IRELAND AND THE ENGLISH PARLIAMENT

### AN IMPERIAL PHASE OF THE PURITAN REVOLUTION

CONSTITUTIONAL theorizing, like all reflective thinking, originates in conditions of difficulty and perplexity, when problems are forced upon men and solutions are demanded. In times of general repose and contentment there is little disposition to speculate on the subjects of which constitutional theory takes account. "The bulk of mankind", as Burke remarked, "are not excessively curious concerning any theories whilst they are really happy; and one sure symptom of an ill-conducted state is the propensity of the people to resort to them." It required the storm and stress of the Puritan Revolution to produce that body of polemic literature on questions of government, so momentous in consequence for the modern world, of which Milton and Harrington, Hobbes and Filmer, were the outstanding representatives.

The Puritan Revolution was a period of crisis in the history of the British Empire[1] as well as in the domestic history of England, and it was accompanied, therefore, by examination and discussion of imperial relations. The constitutional structure of the empire and the source of political authority therein

1 The term "empire" is a convenient designation for the aggregate of communities subject to the crown of England, though it was not used commonly in this sense before the eighteenth century. The Stuart kings of England, it will be remembered, ruled over a number of dominions outside the realm of England — Scotland, Ireland, the Channel Islands, the Isle of Man and the oversea colonies. For the history of the term "British Empire" see *The Scottish Historical Review*, XV, pp. 185-187, and *The American Historical Review*, XXVII, pp. 485-489.



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

became subjects of controversy, and upon the question of Parliament's position in the empire, in particular, there was sharp difference of opinion. The crisis passed, though not without armed hostilities between the English government and the dominions, but the basic constitutional question at issue was not settled. It was to reappear in the later dispute between Great Britain and the Thirteen Colonies. The opinions respecting imperial relations advanced in the course of the earlier controversy prefigure those expressed during the years immediately preceding the Declaration of Independence. In the constitutional history of the British Empire the Puritan Revolution may be regarded as the first phase of the American Revolution, and it is from this point of view that it is proposed to consider a significant series of events in Anglo-Irish relations.

The Earl of Strafford, Charles I's Deputy in Ireland, aroused resentment among all influential classes of the Irish people by his policy of "Thorough", and charges against his administration made by the Irish House of Commons soon after his return to England, in 1640, were used by the Parliamentary leaders at Westminster in formulating articles of impeachment against him. One of the grounds for the impeachment, contained in a set of articles which the English House of Commons presented to the Lords on January 30, 1641, was that the Earl, in order to alienate the people of Ireland from the King's government of that realm and to subvert its "fundamental laws", had declared publicly that Ireland was a conquered nation and that the King might do with its people as he pleased.[1] Subsequent events were to make it plain that the English Puritans were concerned for Irish freedom only because they hated and feared Strafford; if he had chastised the Irish with whips, Cromwell was to chastise them with scorpions. But for the time being it suited the purposes of the English Parliamentary leaders to ally with the Irish Parliament against the common enemy.

[1] Nalson, John, *An Impartial Collection of the Great Affairs of State, from the Beginning of the Scotch Rebellion in the Year MDCXXXIX to the Murther of King Charles I*, vol. II (London, 1683), p. 12.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In protest against the Strafford régime the Irish House of Commons, on February 16, 1641, declared that the people of Ireland were "free, loyal, and dutiful Subjects", to be governed "only by the common Laws of *England* and Statutes of Force in this Kingdom, in the same manner and Form as his Majesty's Subjects of the Kingdom of *England* are, and ought to be governed by the same common Laws and Statutes of Force in that Kingdom, which of Right the Subjects of this Kingdom do challenge, and make their Protestation to be their Birthright and best Inheritance." Since, however, the unlawful actions and proceedings of the late administration tended to violate the rights of the King's Irish subjects, the House propounded a series of questions and asked the Lords of the Irish Parliament to require the judges to answer them in writing, "not for any Doubt or Ambiguity which may be conceived or thought of . . . but for Manifestation and Declaration of a clear Truth, and of the . . . Laws and Statutes already planted, and for many Ages past settled in this Kingdom."[1] The first question was: "Whether the Subjects of this Kingdom be a free people, and to be governed only by the common Laws of England and Statutes of Force in this Kingdom?" On May 25 the replies of the judges were delivered by the Lords to the Commons.[2] To the first question the judges answered: "That the Subjects of this Kingdom are a Free People, and are for the general to be Govern'd only by the Common Laws of England, and Statutes of Force in this Kingdom", but they added that the word "only", in the question submitted to them, must receive a "benign exposition" before a general answer in the affirmative could be given. As to whether Ireland was subject to the legislative authority of the English Parliament, a point not explicitly raised by the question, they expressed no opinion.

The Commons were not satisfied and made arrangements for a conference with the Lords concerning the questions and the

[1] *The Journals of the House of Commons of the Kingdom of Ireland*, I, pp. 174-175.

[2] *Ibid.*, p. 215. The answers of the judges are given in Nalson, *op. cit.*, p. 575 *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

"pretended answers" of the judges. They appointed Patrick Darcy, a Catholic lawyer and a member of the House, as their spokesman at this conference and directed him to explain why they had presented the questions and to give particular reasons for each of them.[1] The conference was duly held, and at it Darcy delivered a long "argument", which was later published,[2] in the course of which he contended that the English Parliament had no right to make laws for Ireland. He seems to have drawn a distinction, which was later to receive much emphasis, between its right to *declare* law and its right to *make* law for Ireland. He apparently meant to concede the former, but he said that new legislation by the English Parliament had never been received in Ireland until enacted by the Irish Parliament.[3]

The Commons, furthermore, proceeded to record, in the form of Declarations, their own opinion of the law on the questions that had been submitted to the judges. In answer to the first they voted unanimously, on July 26, "that the Subjects of this his Majesty's Kingdom are a free People, and to be governed only according to the common Law of *England*, and Statutes made and established by Parliaments in this Kingdom of *Ireland*, and according to the lawful Custom used in the same."[4] This amounted to a declaration that Ireland was not subject to the legislative authority of the English Parliament; nor did it hint at any distinction between Parliament's power to *declare* and to *make* law for Ireland.

[1] *The Journals of the House of Commons of the Kingdom of Ireland*, I, p. 223.

[2] *An Argument delivered by Patricke Darcy, Esquire; by the express order of the House of Commons in the Parliament of Ireland, 9 Iunii, 1641.* This was printed at Waterford in 1643 by Thomas Bourke, printer to the Confederate Catholics of Ireland. I have used a reprint, published in Dublin in 1764, a copy of which is in the Library of Yale University. Besides "Mr. Darcies Reply to the Answer of the Judges", this contains the questions submitted to the judges, a speech delivered by a member of the Irish House of Commons upon presenting the questions in the House of Lords, the answer of the judges, and the declarations of the law upon the questions by the Commons.

[3] *Ibid.*, p. 70.

[4] *The Journals of the House of Commons of the Kingdom of Ireland*, I, p. 269.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Much has been written on the Irish Catholic Rebellion that broke out in Ulster in October, 1641. There can be no doubt that the Catholics of Ireland had actual grievances, religious and agrarian in particular. But the immediate cause of their uprising was fear of what would happen to them under the rule of an English Puritan Parliament. Richard Bellings, a member of the Irish House of Commons in 1641 and conspicuously associated with the Catholic Confederation which was formed in the following year, wrote a history of the events in which he had borne a prominent part, and in this he recorded his opinion that of the reasons given by the insurgents for their resort to arms "the most pregnant" related to "the apprehensions they had of the designe in the Parliament of England wholly to suppresse the exercise of the Catholicke religion among them."[1] From the outset and continuously the insurgents protested their loyalty to Charles I and declared that they were acting in defence of his prerogative as well as of their faith. In the documents in which they sought to justify their appeal to the sword they not only expressed their fear of the English Puritan Parliament but denied that it possessed any lawful authority over Ireland.

News of the Irish Rebellion reached the English Parliament at the beginning of November, 1641, and measures were at once taken to meet the emergency. The ingenious idea of making rebellion pay for its own suppression soon occurred to parliamentarian minds, and on December 1 the King was petitioned to reserve the disposal of Irish lands forfeited by reason of the rebellion, in order that some satisfaction might be made to his English subjects for the expenses they were likely to

[1] Bellings's narrative, based upon two contemporary manuscripts, was published some forty years ago in a work entitled *History of the Irish Confederation and the War in Ireland. . . . By Richard Bellings. . . . With Correspondence and Documents of the Confederation and of the Administrators of the English Government in Ireland, Contemporary Personal Statements, Memoirs etc.*, ed. by John T. Gilbert, 7 vols. (Dublin, 1882-1891). In these volumes the editor brought together a mass of documentary matter essential for a study of the Catholic Confederation, of which little was known previously. The work will be cited hereinafter as Bellings.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

incur in putting it down.[1] In the following February "divers worthy and well affected persons", zealous Puritans no doubt and sound imperialists, and manifestly possessed of a sharp eye to the main chance, approached the House of Commons with an attractive financial proposition. They pointed out that many millions of acres of land in Ireland had become liable to confiscation, and they said that a fund of £1,000,000 could easily be raised for "the reducing of the rebels", if two and a half million acres were assigned to subscribers. "This monstrous scheme of confiscation", in the words of Gardiner, "was received without a word of objection",[2] and a bill incorporating all of its provisions was duly passed and became law in March.[3] This was one of the last enactments of the Long Parliament to which the King gave his assent, and he did so, in his own words, "without taking time to examine whether this course may not retard the reducing of that kingdom by exasperating the Rebels, and rendering them desperate of being received into grace if they shall return to their obedience."[4] The King's action on the bill was superfluous from the point of view of Parliament, which had already assumed the power of legislating without his assent.[5] The exasperation of the rebels was a fore-

[1] *The Journals of the House of Commons,* II, p. 330; Dunlop, Robert, *Ireland under the Commonwealth,* I, p. cxx.

[2] *History of England from the Accession of James I to the Outbreak of the Civil War,* new ed. (London, 1899), X, p. 173.

[3] 16 Car. I, c. 33. The money subscribed was all to be used for the suppression of the Irish Rebellion, but as a matter of fact some of it was spent to support the Puritan Rebellion against the King in England. See Bagwell, Richard, *Ireland under the Stuarts and during the Interregnum,* II, p. 36.

[4] Bellings, *op. cit.,* I, p. 261.

[5] In 1642, before the outbreak of the Civil War in England, the Lords and Commons of the Long Parliament advanced the revolutionary claim that they had the right to enact laws without the personal approval of the King, and after Charles I had refused his assent to a bill that would have deprived him of the control of the militia, the Houses proceeded to pass the measure in the form of an ordinance. In a war of words that preceded the appeal to arms the legality of the Militia Ordinance was denied by the King and affirmed by Parliament, the latter asserting that the King's pleasure was exercised and declared in the High Court of Parliament "after a more eminent and obligatory manner" than it could be "by personal act or resolution of his own" and that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

gone conclusion, and this sweeping measure of confiscation only stiffened them in their resistance to the principle of Parliamentary legislation for Ireland.

At a General Assemby held at Kilkenny in October, 1642, which was practically a parliament of the insurgent population, the Catholic Confederation was definitely organized. By this time the insurgents had been joined by a number of the Catholic members of the Irish Parliament, who had withdrawn from it after the outbreak of the rebellion,[1] and several of these men took active part in the establishment of the Confederation. In June, 1642, the remaining members of the Irish House of Commons expelled some forty of the absentees who were "in open rebellion" or "indicted of high treason", adjudging them to be "rotten and unprofitable members, fit to be cut off" and ordering that their seats be filled by new elections.[2] Thereafter the Irish Parliament was a sectional assembly, from

what was agreed to in Parliament had the "stamp of the royal authority" even though His Majesty, "seduced by evil counsel", should oppose it. The documents in this controversy can be found in Rushworth, *Historical Collections*, Part III (London, 1692), vol. I, p. 526 *et seq.* Soon after the Restoration this theory was formally branded as political heresy. All of the enactments of Parliament from the time of its breach with the King to the Restoration were pronounced null and void, and it was provided by statute that if any person declared "that both Houses of Parliament or either House of Parliament have or hath a Legislative Power without the King", he should incur the penalties *of praemunire* (13 Car. II, c. 1). It is customary to give the name of Parliament to the two Houses during the years of their conflict with the crown, and not to withhold it even from that legally disreputable remnant of the House of Commons known as the Rump, which usurped supreme power, abolished the monarchy and the House of Lords and proclaimed a republic. But we must realize, if we would have accurate ideas about Parliament, that it never had legal existence apart from the King. It was during the Civil War that the conception of Parliament as an entity distinct from the King had its origin, but this idea, though it was to be perpetuated with very important consequences for the political history of the world, was always, as Professor Pollard remarks (*The Evolution of Parliament*, 2d ed., London, 1926, p. 259), "a fundamental misconception of the English constitution", tending "to falsify history and to render unintelligible the actual working of the constitution of the empire."

[1] Historical Manuscripts Commission, *Calendar of the Manuscripts of the Marquess of Ormonde*, new series, II, p. 90.

Bellings, *op. cit.*, II, p. 47.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

which Catholics were barred.[1] The championship of the Irish national cause passed from Dublin to Kilkenny.

The Kilkenny Assembly established a Supreme Council, to consist of twenty-four members appointed by the Assembly, with subordinate provincial and county councils. It decreed that the Catholic Church should enjoy all the privileges guaranteed to it by Magna Carta, and that the common law of England and all statutes of force in Ireland, which were not contrary to "the Catholick Roman religion, or the liberties of the natives, and other liberties of this kingdom" should be observed. All persons were to bear true allegiance to the King, and an oath of association or union was to be taken in the parish churches after confession and the reception of the sacrament. Evidence of the influence of lawyers in the Assembly appears in an ordinance providing for the establishment of "one Inns of Court" in order that "the laudable laws of England and Ireland may not die amidst the disasters of these times."[2] Patrick Darcy seems to have been the most distinguished lawyer in the Assembly, for when a committee was appointed to frame a "model of civil government" its members were instructed to call upon him for assistance.[3] He was a member of the Supreme Council throughout the history of the Confederation, which lasted till 1649. The work of the Confederate Catholics is thus summarized by John T. Gilbert, a diligent student of their records: "Declaring by public oath their allegiance to the King, but resisting the authority of the English Parliament, the Confederates, through their Supreme Council, organized forces, nominated commanders and officials, collected the public revenue, levied taxes, minted coin, treated with foreign powers, and governed a considerable part of Ireland."[4]

We have now to see what position the Confederation took

[1] Gardiner, *History of the Great Civil War*, new ed. (London, 1893), I, p. 113.

[2] For the work of the Assembly, see Bellings, *op. cit.*, II, p. 73 *et seq.* For a brief account, see Bagwell, *op. cit.*, II, p. 25 *et seq.*

[3] Bellings, *op. cit.*, II, pp. 84-85.

[4] *Ibid.*, I, p. iii.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

on Anglo-Irish constitutional relations. In the archives of the Franciscans of the Irish Province there is an anonymous volume, printed in small quarto, without date or name of printer; according to a note in contemporary handwriting on the title-page it was printed at Lille in January, 1643. It is entitled *Manifeste et Articles que les Catholiques Confederez d'Hibernie demandent en toute humilité, au Serenissime Charles leur Roy, pour trouver une bonne Voye d'Accord*,[1] and probably relates to terms formulated by the Confederates in connection with an unsuccessful overture for negotiations with the King in 1642. In this document there was emphatic denial that the English Parliament possessed any lawful authority over Ireland, and a constitutional status was claimed for Ireland coordinate with that of Scotland. After specifying a number of desired reforms the Confederates said:

> Enfin, nous demandons humblement, que ces articles soyent . . . distinctement confirmez par sa Majesté, et par nostre Parlement d'Hibernie, ne reconnaissans aucune subjection ou subordination à aucun autre Parlement, soit d'Angleterre, soit d'Escosse, comme l'Escosse ne recognoit point celuy d'Angleterre, ains seulement à sa Majesté, à son Conseil privé, et à nostre Parlement procedant juridiquement et selon nos coustumes, et enfin, à nos Conseils d'Hibernie.

On March 17, 1643, agents appointed by the Supreme Council met commissioners of the King at Trim and presented to them a "Remonstrance of Grievances" to be transmitted to him.[2] In a memorial sent in advance of the meeting to the Marquess of Ormonde, one of his commissioners and commander-in-chief of his forces in Ireland, the King gave his opinions on certain demands which the Confederates would

[1] Reprinted in Bellings, *op. cit.*, III, pp. 336-339.

[2] This was printed at Waterford a few months later and may be found in Rushworth, *op. cit.*, Part III, vol. I, p. 385 (should be 417) *et seq.*, and in Bellings, *op. cit.*, II, p. 226 *et seq.* The King wished to come to terms with the Irish Catholics so that his forces in Ireland might be available for use against the Roundheads in England. Gardiner, *History of the Great Civil War*, I, p. 120.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

probably make in their propositions for peace. One of these was: "That Ireland should not be obliged by any statute made in England, which shall not be confirmed by their Parliament, nor be commanded by orders of the Parliament of England." The King seems to have been not unsympathetic toward this demand, though conditions—the Civil War was then in progress—made it inexpedient for him to appear to support the constitutional claims of Irish Catholics against the Puritan imperialism of the Long Parliament, for he said: "They may have much to say for themselves in this point; but this caution must be observed, both in respect of the president [sic], and the influence it may have upon his Majestie's affairs here, [that] what shall be agreed upon concerning the same, be admitted by way of declaration of what is their right, not as granted *de novo*."[1]

The King was correct in his surmise that the Confederates would insist upon the legislative independence of Ireland. One of the grievances specified in their Remonstrance was that the "malignant party"[2] in the English Parliament, then in arms against the King, had declared "that Ireland was bound by Statutes made in England, if named", which, they said, was "*contrary to the known Truth, and the Laws settled here for* 400 *years*." In Article X of the Remonstrance they declared:

> That *whereas* Ireland *has a Parliament of its own, and no Statute made in* England *ought to bind in* Ireland, *unless there established by Parliament; yet by several late Acts, your Majesty's Subjects unsummoned, unheard, were declared Rebels, and two millions and a half of Acres of their Lands sold to the Undertakers; which Acts they conceive to have been forced upon your Majesty, because unjust and destructive, the Scope seeming to aim at Rebels only, and the disposition of a certain quantity of Land, but in effect and substance,* all the Lands in the Kingdom *may thereby be distributed. By colour whereof the Forces sent hither*

[1] Bellings, *op. cit.*, II, pp. 141-143; see also Carte, Thomas, *The Life of James, Duke of Ormonde,* new ed. (Oxford, 1851), II, pp. 441-442.

[2] I. e., the Puritan party. The Kilkenny Assembly had decreed that the enemy should not be called "English" or "Protestants"; but "the Puritanical or malignant party". Bellings, *op. cit.*, II, p. 84.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Disavow *Authority from your Majesty, but depend upon the Parliament of England.*

The Protestants of Ireland, learning of the Confederates' Remonstrance, drew up answers to the several articles.[1] Though attributing the worst of motives to the Catholics and denying the reality of most of their alleged grievances, the Protestants did not commit themselves unreservedly to the constitutional doctrine that the English Parliament had a right to legislate for Ireland. They could not have done so with very good grace, since the representatives of both religions in the Irish Parliament had united to deny that right less than two years before. "Whether Laws made in *England* will *bind in Ireland*, if Ireland named [sic]," the Protestants said, "is a point concerns [sic] the *Protestants* of *Ireland* as much as *Papists*, and being only talk'd of, might more fitly have been disputed in Civil Assemblies, than by *Arms* and open Hostility against Your Majesty, and the Resolution written in the Blood of so many Thousand Protestants." In answer to Article X they said: "How far Laws made in *England* may *bind* in *Ireland*, will best appear by Records and Precedents." They denied, however, that the confiscation act had been forced upon the King, and, without expressly affirming the right of the English Parliament to interfere in Irish affairs, declared that it had been passed as the best means of relieving the King's despoiled Irish Protestant subjects.

Soon after the meeting at Trim the King instructed Ormonde to treat with the Catholics for a year's truce and, if successful in securing it, to bring his army over to England. The Confederates were at one with the King in thinking that the forces which had been used against themselves might be more profitably employed in fighting the English Puritans, and "articles of cessation" were signed in September, 1643. The English Puritan pot expressed its opinion of the Irish Catholic kettle when the Long Parliament protested against the cessation on the ground that it would make it possible for "the Papists and

[1] Rushworth, *op. cit.*, Part III, vol. I, p. 388 (should be 420) *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Rebells of Ireland to help the faction against religion here".[1] Even if he had desired to do so, the King was never in a position to renew the war in Ireland, and the truce was extended by subsequent agreements. At length, in January, 1649, less than a month before the execution of Charles, a treaty of peace was agreed upon by Ormonde and the General Assembly at Kilkenny, whereby the Confederates secured most of what they had been contending for.[2]

Throughout the protracted negotiations of these years the Confederates never wavered in their insistence upon the legislative independence of Ireland. In March, 1644, propositions formulated by the General Assembly in pursuance of the Remonstrance delivered at Trim were presented to the King at Oxford.[3] Number 11 of these was as follows:

> That an Act shall be passed in the next Parliament, declaratorie that the Parliament of Ireland is a free Parliament of itselfe, independent of, and not subordinate to, the Parliament of England; and that the subjects of Ireland are immediately subject to your Majesty as in right of your Crowne; and that the members of the sayd Parliament of Ireland, and all other the subjects of Ireland are independent, and no way to be ordered or concluded by the Parliament of England, and are onely to be ordered and governed within that kingdome by your Majesty and such Governors as are or shall be there appointed, and by the Parliament of that kingdome according to the lawes of the land.[4]

To this the King answered:

> His Majestie conceives the substance of this Proposition (which concernes the fundamentall rights of both kingdomes) fitt to be

[1] Bellings, *op. cit.*, II, p. 295.

[2] *Ibid.*, III, pp. 208-210, 273-275; V, pp. 72-75, 286-308; VI, pp. 177-178; VII, pp. 184-211.

[3] They are printed in Bellings, *op. cit.*, III, pp. 128-133, and endorsed "Irish Agents' Propositions, March the 28, 1644".

[4] In another of the Propositions, which was not included in the revised draft, the demand was made that the confiscation act "and all other Acts and ordinances made in the Parliament of England in prejudice of the sayd Catholiques" should be declared void.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> referred to the free debate and expostulation of the twoe Parliaments, when it shall please God that they may freely and safely sitt, his Majestie beinge soe equally concerned in the priviledges of either that hee will take care to the utmost of his power that they shall both contayne themselves within their proper limitts, his Majestie beinge the head and equally interested in the rights of both Parliaments.[1]

In September, 1644, during the course of negotiations between Ormonde and Confederate commissioners, the latter presented the same propositions that had been delivered to the King in the preceding March, whereupon a debate took place between Sir Richard Bolton, Lord Chancellor of Ireland, and assistants, on the one side, and the commissioners, on the other.[2] In the interchange of arguments on Proposition Number 11 both sides agreed that Ireland was not subject to the legislative authority of the English Parliament. The only real difference of opinion here was as to the necessity of declaring the Irish claim in the form of a statute. On the government side it was contended that a declaratory resolution of both Houses of the Irish parliament would be sufficient, while the commissioners urged that since the King had given his assent to an act of the English Parliament purporting to bind Ireland, it was necessary that he should now approve an act of the Irish Parliament denying the English claim. Ormonde's answer to Number 11 was identical with that which the King had already given at Oxford. In explaining why this failed to satisfy them the Confederates based their denial of the jurisdiction of the English Parliament over Ireland upon the fact that Ireland was not represented in that Parliament. They said:

> The said Catholicks do conceive and affirm in all cleerness, that the Parliament of Ireland is independent of the Parliament of England, without which independency this realme could be no kingdom nor any Parliaments here necessary, nor any subject of this kingdom sure of his estate, life, or liberty, other than at the

[1] Bellings, *op. cit.*, III, p. 177.

[2] *Ibid.*, III, p. 278 *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> will and pleasure of a Parliament, wherein neither Lords, Knights, nor burgesses of this kingdom have place or vote, and which vowed the destruction of all or most of this nation, and unwarrantably assumed the power to dispose of their estates, . . . To draw this into any debate or question might prove of most dangerous consequence to this nation, and yet a declaration of the Parliament here, and an act as in the Proposition is set down, is humbly desired, in regard his Majesty was drawn to give the royall assent to the Acts of subscription.[1]

The subsequent course of negotiations between Ormonde and the Confederation makes it clear that on the issue of Irish legislative independence the King did not dissent in principle from the opinion of the Confederates, and that he was quite willing to have the Lords and Commons at Dublin embody this view in resolutions of their own. His objection to a declaratory act was based on considerations of expediency; he believed that his assent to such an act would injure his cause in England.[2] The Confederates eventually yielded on the point of a declaratory act, and in the articles of peace agreed upon by Ormonde and the General Assembly in January, 1649, it was provided "that as for and concerning the independency of the parliament of Ireland of the parliament of England, his majesty will leave both houses of parliament in this kingdome to make such declaration therein as shall be agreeable to the lawes of the kingdome of Ireland."[3]

But Anglo-Irish relations were not to be adjusted by parliamentary resolutions. In August, 1649, Cromwell landed in Dublin. *Inter arma silent leges.*

In April, 1644, while negotiations were in progress between the King and the Irish Confederates, an anonymous book in manuscript was brought to the attention of the Irish House of Lords and referred by them to the House of Commons with a view to holding a conference upon it. After it had been read in the Commons the House went into committee to discuss it,

[1] Bellings, *op. cit.*, III, pp. 310-311.

[2] *Ibid.*, IV, p. 247; V, p. 97.

[3] *Ibid.*, VII, p. 194.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

but before any action was taken Parliament was prorogued, and the Commons' Journals do not record any subsequent proceedings with respect to it.[1] The book in question was entitled *A Declaration setting forth how, and by what means, the Laws and Statutes of England, from time to time, came to be of Force in Ireland.* It was the most detailed defence that had yet appeared of the contention that Ireland was not subject to the legislative authority of the English Parliament, and the notice it received shows that it must have created something of a sensation. It elicited a long reply from Sir Samuel Mayart, a justice of the Court of Common Pleas of Ireland, who undertook to prove that Ireland was legally bound by acts of the Parliament at Westminster.[2] Both of these writings, strangely enough, remained in manuscript for more than a hundred years, until, in 1750, they were published by Walter Harris as Part II of his *Hibernica*.[3] In one manuscript copy of the *Declaration* which Harris used the name of Sir Richard Bolton appeared as the author, but on the strength of the resemblance which the work bore to Darcy's *Argument*, referred to above, Harris thought it probable that it had been written by the latter.[4] Its authorship remains uncertain. The *Declaration*

[1] *The Journals of the House of Commons of the Kingdom of Ireland,* I, pp. 323, 326, 327, 328; Harris, *Hibernica* (Dublin, 1770), Part II, Preface, pp. 5-6 and pp. 47-48.

[2] *Serjeant Mayart's Answer to a Book intitled, A Declaration setting forth how, and by what means, the Laws and Statutes of England, from time to time, came to be of Force in Ireland.*

[3] My references to this publication are to a later edition of 1770.

[4] *Hibernica,* Part II, Preface, pp. 3-4. So far as is known, Darcy consistently denied the right of the English Parliament to make laws for Ireland. It seems doubtful whether the same can be said of Bolton. In an edition of the Irish statutes published by him in 1621 it is stated in a marginal note to the statute 10 Henry VII, c. 22, that an act had been passed by the Irish Parliament in the tenth year of Henry IV and another in the twenty-ninth of Henry VI to the effect that English statutes should not be of force in Ireland unless allowed and published in that kingdom by the Parliament of Ireland. (See Molyneux, William, *The Case of Ireland being bound by Acts of Parliament in England, Stated,* ed. of 1773, pp. 39-40.) This might suggest that in 1621 Bolton held the doctrine of the legislative independence of Ireland. However, on March 31, 1642, he put his signature to a letter sent by the Lords Justices and Council of Ireland to the Lord Lieutenant, in which these words occur: "And considering

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and Mayart's *Answer* are not easy reading. They are dusty with dry gleanings from year books and statutes, and their authors lived long before Blackstone, in the words of Bentham, "taught jurisprudence to speak the language of the scholar and the gentleman". Yet these writings are entitled to an important place in the history of the long controversy over Anglo-Irish constitutional relations,[1] and it has been shown that they have significance for the student of the American Revolution.[2] They go, in fact, to the root of the question of the political structure of the British Empire, and they are deserving of more careful analysis than they have received.

The author of the *Declaration* did not claim for Ireland the complete exemption from the jurisdiction of the English Parliament for which, seemingly, the Catholic Confederates were contending. Knowing that some English statutes had unquestionably been regarded as binding upon Ireland, he proceeded, with an advocate's ingenuity, to draw a distinction, with regard to their force in Ireland, between declaratory and introductory acts of Parliament. The common law of England having been established in Ireland during the reign of King John, such English statutes enacted since then as were merely declaratory of the common law, were, he said, in force in Ireland of their own authority, without confirmation by the Parliament of Ireland. But — and this is his main thesis — English statutes which were "introductory and positive, making new laws, or any ways altering, adding unto, or diminishing the ancient

that the Parliament of England have with great wisdom interposed towards the deliverance of this kingdom . . . and that it is therefore necessary that we so order our counsels in that great work as our proceedings may consist with their purposes and resolutions for His Majesty and this kingdom . . . we have now directed our letters to the Speaker of the honourable Commons' House of Parliament there . . . and we hope to be directed from that side how to govern our proceedings in a matter of so high concernment." *Ormonde MSS.*, new series, II, pp. 103-104. We have seen that in 1644, the year in which the *Declaration* made its appearance, Bolton was at one with the Catholic Confederates in opposing the claims of the English Parliament.

[1] Ball, J. T., *Historical Review of the Legislative Systems operative in Ireland,* new ed., chap. v.

[2] McIlwain, C. H., *The American Revolution,* p. 33 *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Common Laws" were not binding upon Ireland or in force there, he insisted, unless and until "enacted, allowed, and approved of, by act of Parliament in *Ireland*."[1] In 1495, as was well known, it had been enacted that all statutes lately made in England relating to the public weal should thenceforth be in force in Ireland,[2] and this had been interpreted judicially to apply to all previous English statutes of this nature.[3] But this reception of English statute law was effected by act of the Irish, not of the English Parliament, and, of course, it did not extend to subsequent English statutes. With regard to the latter, other than those that were merely declaratory of the common law, the author said: "It is true, that since 10 *Hen.* 7. there have been many acts of Parliament made in *England* of great importance both for the government of the commonwealth, and the administration of justice between party and party, which are now of force in *Ireland*: but none of them were ever received as laws in *Ireland*, until the same were enacted by several Parliaments holden in *Ireland*. . . ."[4] And likewise, with reference to times before 1495, he said that "none of the statutes made in England from the 12th year of King *John*, until 10 *Hen.* 7. (which were introductory or positive) have been received or put in execution, as laws, in the realm of *Ireland*, until the same were approved and enacted by several acts of Parliament in *Ireland*."[5]

To sustain his contention the author referred to certain medieval Irish statutes which confirmed earlier English statutes, assuming that none of the latter had been in force in Ireland before such confirmation.[6] It was undeniable that acts had been passed in England from time to time, beginning in the thirteenth century, in which Ireland was specifically named, but most of these the author left out of consideration, and those

[1] *Hibernica*, Part II, pp. 14-15.

[2] 10 Hen. VII, c. 22 (Irish).

[3] Ball, *op. cit.*, p. 31.

[4] *Hibernica*, Part II, p. 23.

[5] *Ibid.*, p. 23.

[6] *Ibid.*, pp. 15, 18.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

which he mentioned were dismissed either as being declaratory acts or as never having been received or obeyed in Ireland.[1]

Many statutes had been passed by the English Parliament, especially during the Tudor period, which mentioned the King's dominions in general and were clearly intended to apply to them. The author referred to a few of these enacted at the time of the Reformation, but he regarded them as *ultra vires* and nugatory, as far at least as their application to Ireland was concerned, and he said that they had not been received or in force there until subsequently enacted by the Parliament of Ireland.[2]

Twice during the Middle Ages, in the 19th year of Edward II and in the 29th of Henry VI, acts had been passed in Ireland, he said, declaring that English statutes should not be in force there unless approved and allowed by the Irish Parliament.[3] These acts, he admitted, were not to be found in the extant rolls of the Irish Parliament, but he undertook to explain this by saying that many records "miscarried in those troublesome and distempered times."

Mayart in his *Answer* denied that any valid distinction could be drawn between the power to enact declaratory laws and the power to enact introductory laws. Such a distinction he called "a difference without a diversity" and "a division of a thing, which is in truth indivisible". If the Parliament of England had the right to bind Ireland by statutes of the one kind, as had been conceded in the *Declaration*, it had the right to bind it by statutes of the other kind.[4]

[1] The *Statutum Hiberniae* of Henry III he regarded as merely explanatory of common law. *Hibernica,* Part II, pp. 25-27. Of an *Ordinatio de Statu Terrae Hiberniae,* of 17 Edward II (1323), which he erroneously assigned to the reign of Edward I, he said that it was "never received in Ireland" and, moreover, that it was not an act of Parliament but only an ordinance of the King in Council, "and therefore could not have the force of law". *Ibid.,* p. 28. For these documents see *Statutes and Ordinances, and Acts of the Parliament of Ireland, King John to Henry V,* ed. by Henry F. Berry, under the direction of the Master of the Rolls in Ireland (Dublin, 1907), pp. 21, 293.

[2] *Hibernica,* Part II, p. 30.

[3] *Ibid.,* p. 15.

[4] *Ibid.,* pp. 77, 177.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Having regard to the historical evolution of legislation in England, we may say, in comment, that it is very doubtful whether there was in the minds of medieval lawyers and legislators any such clear distinction between declaratory and introductory statutes as would have been necessary in order to determine, according to the theory of the author of the *Declaration*, which English statutes should, and which should not, be deemed in force in Ireland. In a valuable paper on "Magna Carta and Common Law," Professor Charles H. McIlwain has argued that medieval English statutes, in purpose and in essence, were declarations of preexisting law, and that statutory changes in the law came about incidentally and gradually;[1] and elsewhere he says that the distinction between declaratory and introductory acts is a comparatively late one, that "conscious legislation" (i. e., the enactment of avowedly new law) is difficult to find much before the fifteenth century.[2] If this is a correct view of the origin of legislation in the modern sense, if the *making* of law grew gradually out of the *declaring* of law, it is apparent that the author of the *Declaration* was guilty of a fatal anachronism in supposing that a distinction between declaratory and introductory laws could have been employed by medieval Irish judges as a criterion for determining the binding force of English statutes in Ireland. It is only fair to say, however, that Mr. McIlwain's opinion has not commanded general assent. In particular, it has been challenged by Mr. Theodore F. T. Plucknett in his *Statutes and their Interpretation in the First Half of the Fourteenth Century*.[3] On the basis of a careful study of the year books Mr. Plucknett concludes that there was conscious law-making during the period covered by his investigation, that statutes often altered the common law, and that this was recognized by contemporaries.[4] But if this was the case, the position of a medieval Irish judge, called

[1] *Magna Carta Commemoration Essays*, pp. 140-141, 145.

[2] *The American Revolution*, pp. 63, 73.

[3] Part I, chap. iv.

[4] The late George Burton Adams was of the opinion that the same was true of the thirteenth century. See his *Council and Courts in Anglo-Norman England* (New Haven, 1926), pp. 321-324.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

upon to determine amidst the enactments of English statutes (which were not conveniently labeled as declaratory or introductory) which ones should be executed and which should not, would have been well-nigh hopeless. At any rate, it was for the author of the *Declaration* to show that such a practice was followed, but he gave no evidence whatever to indicate that Irish or English courts ever distinguished between English declaratory and introductory acts with regard to their binding force in Ireland.

In the *Declaration*, as we have seen, stress was laid upon the fact that English statutes were sometimes confirmed by the Irish Parliament as evidence that they had not been in force in Ireland prior to confirmation. It was not to be found in any record in Ireland, the author asserted, "that ever any Act of Parliament made in *England* since the time of King *John* [i. e., since the beginning of statute law], was by the judgment of any Court received for law, or put in execution in the realm of *Ireland*, before such time as the same was confirmed and established by Act of Parliament in *Ireland*."[1] In support of this contention he referred to an Irish statute of 13 Edward II (1320) which confirmed the English statutes of Merton and Marlborough (enacted under Henry III) and of Westminster I and II and Gloucester (enacted under Edward I).[2] Mayart exposed the fallacy of the assumption that the confirmation of a statute necessarily implied that it had not been in force previously,[3] and he showed from Irish court records that the English statutes confirmed by the Irish Parliament in 1320 had been executed in Ireland years before that date, and that other medieval English statutes had been enforced in Ireland before confirmation there.[4] He explained, moreover, how they were transmitted to Ireland.[5] Modern historical scholarship sustains

[1] *Hibernica*, Part II, p. 25.

[2] *Ibid.*, p. 15.

[3] *Ibid.*, p. 172.

[4] *Ibid.*, p. 81 *et seq.* Among the medieval English statutes that had been in force in Ireland, without confirmation by the Irish Parliament, Mayart cited some that mentioned Ireland and some that did not.

[5] *Ibid.*, p. 138.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Mayart's view. From time to time, during the Middle Ages, English statutes were sent to Ireland for enforcement there without reference to the Irish Parliament. The procedure in such cases is thus described by Mr. Henry F. Berry in his authoritative edition of the Irish statutes from John to Henry V, published in 1907:

> Statutes made in England, which were to be observed in Ireland, were sent by means of a transcript under seal from England, to the Chancery of Ireland, with a writ for their enrolment directed to the Chancellor. From the Chancery, they were exemplified under the great seal of Ireland, and sent to the two Benches and the Exchequer, and they were frequently proclaimed in the counties. Sometimes the writ requiring proclamation was addressed to the Justiciar.[1]

It was in accordance with this procedure, in 1285, that Edward I's statutes of Westminster I and II, Gloucester, and Merchants were transmitted to Ireland to be proclaimed and observed there.[2] The principal argument in support of the legislative independence of Ireland advanced by the author of the *Declaration* is thus stripped of its claim to historicity and relegated to that field of pseudo-history which propagandists have ever found so fertile.[3]

[1] *Statutes and Ordinances, and Acts of the Parliament of Ireland, King John to Henry V,* ed. by Henry F. Berry, under the direction of the Master of the Rolls in Ireland (Dublin, 1907), p. xiv.

[2] *Ibid.*, p. 47 *et seq.* For other examples of the same procedure, in the reigns of Edward III and Richard II, see *ibid.*, p. 323 *et seq.* and p. 493 *et seq.* Not all medieval English statutes, of course, applied to Ireland, but the point is that some of them were made binding in Ireland without any action by the Irish Parliament.

[3] This needs to be emphasized in view of the enthusiastic exploitation of the *Declaration* by Professor McIlwain in his stimulating and provocative essay, *The American Revolution,* in which he hails it as "the first exposition of the American constitutional doctrine on parliamentary authority outside the realm" (p. 36). Mr. McIlwain's main thesis is that the precedents, on the whole, sustain the radical American colonial contention that the British Parliament had no lawful authority over the colonies, and to establish it he relies much upon what he calls the "Irish parallel". My conclusion is that the precedents, on the whole, do *not* support the Irish-American claim, but, on the contrary, sustain the British doctrine of Parliamentary supremacy. It is true that the Irish claim to legislative independence eventually triumphed, and in 1783 the British

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

With respect to the confirmation by the Irish Parliament of certain English ecclesiastical statutes of Henry VIII, in which the King's dominions in general were mentioned, Mayart said that this action had been taken not because it was necessary in order to give the statutes in question legal force in Ireland, but merely for the purpose of bringing them, in the most public manner possible, to the attention of the people of Ireland as laws that must be obeyed.[1]

Formal assertions of the legislative independence of Ireland, if such had actually been made by the Irish Parliament, as alleged by the author of the *Declaration*, would have been void, according to Mayart, for "every ordinary understanding man would perceive, that seeing the Parliaments in *England* did bind *Ireland*, Parliaments in *Ireland* could not bind *England*, or take away that power from them, which they had formerly over them."[2]

Upon a few occasions the question of Ireland's relation to the English Parliament had come under consideration in the English law courts. In 1441, in a suit later referred to as

Parliament declared, by statute, that the "right claimed by the people of Ireland to be bound only by laws enacted by his Majesty and the parliament of that kingdom, in all cases whatever . . . shall be, and it is hereby declared to be established and ascertained for ever, and shall, at no time hereafter, be questioned or questionable." (23 Geo. III, c. 28.) But the success of the Irish claim was due to other causes than the strength of the precedents advanced in its behalf.

[1] *Hibernica*, Part II, p. 188.

[2] *Ibid.*, p. 136. An Irish statute of 1460 (38 Hen. VI, c. 6), which was probably unknown to our authors, reads as follows: "Also, at the request of the Commons: That whereas the land of Ireland is and at all times has been corporate of itself, by the ancient laws and customs used in the same, freed of the burthen of any special law of the realm of England, save only such laws as by the lords spiritual and temporal and the commons of the said land had been in Great Council or Parliament there held, admitted, accepted, affirmed and proclaimed, according to sundry ancient statutes thereof made." *Statute Rolls of the Parliament of Ireland, Reign of King Henry the Sixth*, ed. by Henry F. Berry (Dublin, 1910), p. 645. This assertion of Irish legislative independence would have pleased the author of the *Declaration* had he known of it, but it would not greatly have disconcerted Mayart, since the Lord Lieutenant who summoned the Irish Parliament of 1460, Richard Duke of York, had been proclaimed a rebel in England, and a later Irish statute (10 Hen. VII, c. 3) declared the act of 1460 void.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Pilkington's Case*, two of the serjeants, Fortescue and Portington, in the course of argument, said that a tax granted by the English Parliament would not bind Ireland. According to Fortescue, this was because Ireland was separate and distinct from the realm of England, while Portington thought that it was because Ireland was in the same position as the counties palatine of Chester and Durham, which, though not outside the realm, were not represented in the English Parliament.[1] The author of the *Declaration* supposed that Fortescue and Portington were delivering opinions as judges, and cited this case to show that "statutes made in *England* do not bind in *Ireland*, unless the same be approved and allowed of in the Parliament of *Ireland*."[2]

Another case of which the author made much was one that raised directly the question of the right of the English Parliament to legislate for Ireland. An English statute passed early in the reign of Henry VI provided that wool and certain other staple commodities should be exported from Ireland, as well as from England, only to Calais, then in the possession of the English King, and not to any foreign port, on penalty of forfeiture.[3] During the reign of Richard III certain merchants of Waterford consigned wool to Sluys in Flanders, but on the voyage the vessel put in at Calais, where the wool was seized on the ground that it had been exported illegally. The mer-

[1] Year Book, 20 Hen. VI, f. 8. Portington seems to be anticipating the argument of the American colonial Whigs, that taxation without representation is unconstitutional, while Fortescue foreshadows the more radical doctrine of James Wilson, Jefferson and John Adams, that the authority of Parliament is confined to the realm of England. See McIlwain, *op. cit., passim,* for what he calls the "realm-and-dominions" argument and the "fundamental law" argument as advanced by the American colonists against the claims of Parliament.

[2] *Hibernica,* Part II, p. 17. Sir John Fortescue was appointed Chief Justice of the King's Bench in 1442, and Portington was appointed a Justice of the Common Pleas in 1443; they had previously been serjeants. Foss, Edward, *The Judges of England,* IV, pp. 310, 354; Fortescue, *The Governance of England,* ed. by Plummer, pp. 45-46. The mistake made by the author in assuming that they were delivering judicial opinions in *Pilkington's Case* has had a long if not a useful career; see Mayart's *Answer* (*Hibernica,* Part II, pp. 142-143); Molyneux, *op. cit.,* pp. 76-77; Ball, *op. cit.,* p. 28.

[3] 2 Hen. VI, c. 4.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

chants petitioned the King in Council for restitution, and their bill was referred to all the judges in the Exchequer Chamber at Westminster. The opinion of the judges was that Ireland was not bound by English statutes because it was not represented in the English Parliament—"*quia non hic habent Milites parliamenti*". But they held that the people of Ireland, being subjects of the King of England, were liable for breaches of English statutes committed outside of Ireland, and that they were subject on the high sea to the jurisdiction of the English Admiral.[1] They added that appeal lay by writ of error from judgments given in Ireland to the King's Bench in England. When, in the next term of court, the same case came again before them, Hussey, Chief Justice of the King's Bench, said that English statutes were binding on Ireland—"*le chief justice disoit que les estatutes faits en Engleterre liera ceux de Ireland*"—which, says the reporter, was not seriously disputed by the other judges, although some of them had been of contrary opinion in the preceding term in the Chief Justice's absence.[2] The author of the *Declaration* sought to discredit Hussey's opinion by a citation from Brooke's *Abridgment*, which, he said, implied that Ireland could not be bound except by its own Parliament, and by asserting that it was contrary to the opinion of the "judges" in *Pilkington's Case*, to the first opinion in the *Merchants of Waterford Case*, and to the "judgments" of numerous Parliaments in Ireland.[3] Apart, however, from the two alleged acts of the Irish Parliament, referred to above,[4] which were not in the extant records, these "judgments" were merely acts of the Irish Parliament confirming earlier acts of the English Parliament.

In the case of the *Post-Nati* (*Calvin's Case*, 1608) the judges, according to Coke's report of that *cause célèbre*, were of opinion that Ireland, though a "distinct dominion", might "by express words" be bound by act of the English Parliament. This opin-

[1] Year Book, 2 Rich. III, f. 11-12.

[2] Year Book, 1 Hen. VII, f. 3.

[3] *Hibernica*, Part II, p. 29.

[4] *Supra*, p. 506.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ion they seem to have based partly upon the conquest of Ireland by Henry II, and partly upon the fact that appeal lay from the King's Bench in Ireland to the King's Bench in England.[1] To show that Ireland was a dominion separate and distinct from England, Coke cited the first opinion in the *Merchants of Waterford Case*, *viz.*, that the people of Ireland were not bound by English statutes because they did not send representatives to the English Parliament, and then proceeded to reconcile this with the doctrine of the supremacy of the English Parliament over Ireland by interjecting the following unwarranted gloss: "which is to be understood, unless they be especially named."[2] The author of the *Declaration* could not overlook Coke's dictum that Ireland, if named, was bound by English statutes, but he again took refuge in *Pilkington's Case*, the first opinion in the *Merchants of Waterford Case*, and "divers judgments of Parliament in *Ireland* to the contrary."[3] With respect to appeals from the Irish to the English King's Bench, it did not follow from this practice, he said, that the Irish Parliament was subordinate to the English Parliament, or that the latter might make new laws for Ireland, "for if a writ of error be brought in *England* to reverse a judgment given in the King's-Bench of *Ireland*, the Judges of *England* are not to alter or change the laws of *Ireland*, or to give judgment according to the laws in *England* in such case, but according to the laws in *Ireland*. . . ."[4]

*Pilkington's Case* gave Mayart no trouble. Although he, too, mistook serjeants for judges, he pointed out that no one in

[1] Coke, *Reports* (London, 1826), IV, pp. 30-31. In *The Case of Ireland*, cited above, Molyneux refers to the right of appeal from the Irish to the English King's Bench as one of the arguments (he considers it an unsound one) to prove the supremacy of the English over the Irish Parliament. This, he says, seems to have been "the great thing that induced my lord *Cook* to believe that an act of parliament in *England*, and mentioning or including *Ireland*, should bind here. The subordination of *Ireland* to *England* he seems to infer from the subordination of the *King's-bench* of *Ireland* to the *King's-bench* of *England*."

[2] Coke, *Reports*, IV, p. 39.

[3] *Hibernica*, Part II, p. 30.

[4] *Ibid.*, p. 33.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the case had held that English statutes in general could not bind Ireland, and that there was no judgment to that effect. In fact, he was able to use the case as evidence that Ireland was subordinate to England, for here was an English court trying a suit in which plaintiff and defendant were disputing over an office in Ireland. "And if they in *England*", he said, "have power to hold plea in the Courts of Justice there for things in *Ireland*, as by this case it appears they have, doubtless *Ireland* is bound by the judgments of the Courts of Justice in *England*, or otherwise it would have been ridiculous in them to hold pleas of things with which they had nothing to do, and of which, if they had given judgment, they could not award execution."[1]

Nor did the *Merchants of Waterford Case* present any greater difficulty. The fact that the other judges did not dissent from Hussey's opinion showed, Mayart urged, that when they had given further thought to the case "they changed their opinions, and upon serious consideration thought, that the statutes of *England* did bind them of *Ireland*". The author of the *Declaration*, he said, had misinterpreted the passage in Brooke's *Abridgment* for the purpose of discrediting the Chief Justice's opinion.[2]

The right of the King's Bench in England to reverse judgments of the King's Bench in Ireland, a right which was not disputed, was incompatible, Mayart argued, with the legislative independence of Ireland. For if an ordinary court of justice in England had appellate jurisdiction over Ireland, it followed, *a fortiori*, that the Parliament of England, the supreme court of

[1] *Hibernica*, Part II, pp. 142-143.

[2] *Ibid.*, pp. 158-159. The text of the passage in question runs as follows (Brooke's *Abridgment*, ed. of 1586, Part II, f. 119): "Vide titulo Action sur lestatute in Fitz. 6. per loppinion del chiefe Justice que les statutes Dengliterre liera ceux de Irelande que fuit in maner agree per les auters Justices & uncore il fuit deny le darren iour deuant, tamen nota que Irelande est un realme de luy mesme & ad parliament in luy mesme." Mayart took this to mean that "though *Ireland* be a Realm of itself, and hath a Parliament in itself, and though it had been denied before, yet the opinion of the Chief Justice, and the other Judges, when they had more seriously studied, and conferred on that case, was, in a manner, that *Ireland* was bound by the statutes of *England*."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

justice, had authority over it. If Ireland were an independent state, "the writ of Error of a judgment given in the King's Bench in *Ireland*, ought to be returnable only in the Parliament of Ireland, and not in the King's Bench in *England*." The fact that in cases of appeal from Ireland the English court gave judgment according to the law of Ireland could not properly be advanced as an argument to show that Ireland was not subordinate to England, for "to have power to declare what the law is, and to cause it to be executed, as it is declared, is the most sure and undeniable argument of power in them that command, and of subordination in them that obey, that can be."[1]

The origin of the authority of the English King over Ireland and the introduction of English law into that land were so interpreted by the author of the *Declaration* as to give support to his thesis. He denied that the conquest of Ireland by Henry II had had the effect of annexing or subordinating Ireland to the kingdom of England, and he referred to a grant said to have been made by Henry to his son John to show that even if Ireland had been annexed, it would have been wholly separated from England by this act. For John, according to the author, received Ireland from his father as an independent kingdom, and thereafter ruled over it as an "absolute Lord", or independent prince, with the title of "Dominus Hiberniae". Subsequently, after his succession to the English throne upon the death of his elder brother Richard, he "established the government of *Ireland* to be according to the laws of *England*", but he did this, the author insisted, as Lord of Ireland, not as King of England. He might have established the laws of Scotland in Ireland if he had so willed, but this would not have subordinated Ireland to Scotland or made it in any way subject to the jurisdiction of the Scottish Parliament.[2]

Mayart thought it probable that Henry II had conferred some sort of authority over Ireland upon John, but he showed that there was no good evidence to indicate that he had thereby

[1] *Hibernica,* Part II, pp. 148-149, 179-180.

[2] *Ibid.,* pp. 9-10, 38-41.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

made him an independent king.[1] He pointed out that Prince Edward, son of Henry III, received Ireland by grant from his father without becoming an independent ruler in consequence, and he said there was no reason for believing that John received any greater power from Henry II than that which was later conferred upon Edward by Henry III.[2] Moreover, it was not John, according to Mayart, but Henry II, who first introduced the laws of England into Ireland. This was contrary to Coke's statement in *Calvin's Case*, but to support his opinion Mayart referred to grants of land in Ireland made during Henry's reign "according to the laws of England", to a passage in Matthew Paris to the effect that English laws were received at an Irish council summoned by Henry, and to a Declaration adopted by both Houses of the Irish Parliament in 1641, in which it was said that the common law was received and established in Ireland during Henry's reign.[3] After be-

[1] *Hibernica,* Part II, p. 49 *et seq.* According to Roger of Hoveden, Henry II made John "King in Ireland" in 1177. See *Chronica Magistri Rogeri de Houedene,* ed. by Stubbs, Rolls Series, II, p. 133. In the documents relating to Ireland in the Public Record Office in London there is nothing to show that such a grant was made or that Henry divested himself of authority over Ireland. See *Calendar of Documents relating to Ireland, preserved in Her Majesty's Public Record Office, London, 1171-1251,* ed. by H. S. Sweetman, pp. 1-13, covering the reign of Henry II. Henry undoubtedly made a grant of some sort to John, for the latter, as Earl of Morton, issued charters for lands in Ireland before his accession to the English throne. See *ibid.,* index, under "John: Earl of Morton". Even if John was made King in Ireland by his father, it would by no means imply that he was an independent sovereign. There are many instances in the Middle Ages of subordinate kings. For example, Henry II, during his own lifetime, had his eldest son crowned king, but it is certain that he did not intend to make him an independent ruler.

[2] *Hibernica,* Part II, p. 59 *et seq.* In 1254 Henry III granted to Edward, in fee tail, all of Ireland with the exception of a few specified territories, but the homage and fealty which the magnates and free tenants of Ireland were to render to the prince were to be saving their allegiance to the King, and Edward and his heirs were to hold Ireland so that it should not be separated from the crown of England. When Edward, without license from his father, alienated crown lands in Ireland, Henry directed that such alienations should be revoked. *Cal. Docs. rel. to Ireland, 1252-1284,* ed. by Sweetman, nos. 346, 405, 844.

[3] *Hibernica,* Part II, pp. 202-221. It is worth noting that in the course of his opinion in the famous case of Campbell *v.* Hall (1774) Lord Mansfield, C.J., said: "The alteration of the laws of Ireland has been much discussed by

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

coming King of England, John, said Mayart, "confirmed and regulated the laws in Ireland", but in doing so he was acting by virtue of the authority over Ireland inherited from his brother Richard, not by reason of any grant made to him by his father.[1]

Having "proved" from precedent that the Parliament of England had no right to legislate for Ireland, the author of the *Declaration* set forth what he called the "inconveniencies" that might ensue if it possessed such a right. In that case a statute passed by the English Parliament, which could not know conditions in Ireland as well as those who lived there, might repeal or alter all laws made in Ireland, "which were a thing marvellous inconvenient for that Kingdom." If laws to contrary effect were passed simultaneously by the two Parliaments, there would be uncertainty as to which should be obeyed in Ireland. Moreover, it would be contrary to fundamental rights and liberties for the English Parliament to make laws for Ireland, "for by the rules of reason and politic government, to all Statute Laws, whereby the whole Commonwealth is to be governed, the members thereof are to give assent. . . ."[2] But the *argumentum ab inconvenienti* and claims based upon fundamental law were not basic in the *Declaration*; they were

lawyers and writers of great fame at different periods of time. . . . The fact, in truth, after all the researches that have been made, comes out clearly to be as laid down by Lord Chief Justice Vaughan, that Ireland received the laws of England by the charters and commands of Henry II, King John, Henry III, and he adds an *et cetera* to take in Edward I, and the successors of the princes named." King John issued a charter "concerning the observance of the laws and customs of England in Ireland" (*Statutes and Ordinances, and Acts of the Parliament of Ireland. King John to Henry V*, ed. by Berry, p. 23), but this does not prove that English law had not been introduced into Ireland before his reign.

[1] *Hibernica*, Part II, pp. 223-224. It is a fact, however, that no records relating to Ireland, except a few entries in Pipe Rolls concerning a scutage levied by Henry II in connection with an expedition to Ireland, are found in the English public records for the reign of Richard. *Cal. Docs. rel. to Ireland, 1171-1251*, p. xiii.

[2] *Hibernica*, Part II, pp. 30-33. The claim that legislation without representation is contrary to natural law and unconstitutional, though it played but a subordinate part in the author's argument, was to have a prosperous future, both in Ireland and in the American colonies.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

used, rather, to buttress the argument from precedent, which was the foundation of the structure.[1]

The charge that legislation without representation was a violation of fundamental rights and the law of reason Mayart met with a statement of the theory of virtual representation. Ireland, he said, was a part of the English commonwealth, and it was necessary that every statute to bind the commonwealth should have the assent of King, Lords and Commons. It was not necessary, however, "to have Knights and Burgesses from every Seigniorie, Dominion, or County; but the assent of the three estates in Parliament, there met together, shall bind all the members of the Crown of *England*, and all others who are subject to their power."[2] Here again history was on Mayart's side, and he had no difficulty in showing that Parliament had often legislated for territories that sent no representatives to Westminster. An examination of the English statutes passed during the Tudor period leaves no doubt that the Parliaments which enacted them did not consider that their authority was confined to the realm of England. On the contrary, Tudor Parliaments legislated freely for the King's dominions outside the realm. The idea that parliamentary jurisdiction was restricted to those geographical areas in which members of the House of Commons were elected is one that has been advanced at different times and in behalf of different political communities within the empire, but the weight of precedent has always been against it. This, of course, is not to say that resistance to the exercise of parliamentary authority has never been justified, but merely that justification must rest on other grounds than that of precedent.

No action or policy, of course, is ever justified by precedent alone. "Men of sense," said Burke, "when new projects come before them, always think a discourse proving the mere right

[1] It should be clear from the foregoing analysis of the *Declaration* that the author's denial of the legislative authority of the English Parliament over Ireland was not based upon the revolutionary character of the existing English Parliament. He was arguing from the past and for the future.

[2] *Hibernica*, Part II, pp. 195-197. On the nature of representation in the medieval English Parliament see a suggestive note by Professor Pollard in his *Factors in American History*, p. 49.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

or mere power of acting in the manner proposed, to be no more than a very unpleasant way of misspending time." But Mayart had none of that "prudence" which Burke ranked as the first of political virtues. When he urged that it was *expedient* for the English Parliament to legislate for Ireland, he was writing as an Anglo-Irish Protestant, and his reasoning would appear convincing only to those who shared his preconceptions. His statesmanship can be gauged by his remark that "it is not now to be doubted, but they better know in *England* what Laws are in truth fit for them [the Irish], than they themselves do; and if ever they [the English Parliament] had cause, now they have, to maintain their right and power over them, which in all times heretofore they have had."[1]

Throughout his *Answer*, however, Mayart gave evidence of legal learning much more extensive than that shown by the author of the *Declaration*, and of superior powers of reasoning. At every critical point he took issue with his opponent, and as far as precedents were concerned his refutation was in most cases overwhelming. But his tract, as has been said, was not published until 1750, and little seems to have been known of the arguments which it presented. The *Declaration* also remained in manuscript until the same time, but several copies of it were made in 1644 by order of the Irish House of Commons,[2] and there is no doubt that it had an important influence. Molyneux's patriotic pamphlet, which was published in 1698 and to which reference has been made, created an immediate stir and became a storehouse of argument for all later champions of Irish legislative independence. There is conclusive internal evidence to show that Molyneux was thoroughly familiar with the *Declaration*, though he did not mention it, and that he followed it at many points; and it is almost as certain that he would not have written as he did if Mayart's *Answer* had been known to the public of his day.

ROBERT LIVINGSTON SCHUYLER

COLUMBIA UNIVERSITY

[1] *Hibernica*, Part II, p. 193.

[2] *The Journals of the House of Commons of the Kingdom of Ireland*, I, p. 327.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# EGYPTIAN COTTON AND THE AMERICAN CIVIL WAR

DURING the last year of the American Civil War the *North American Review*, of Boston, expressed an editorial opinion that "the barbarism of the South, while destroying itself", appeared "in the providence of God to be working out the regeneration of Egypt"; that by the crime of secession the Southern States had developed their own most formidable rival in the production of cotton for the world's markets.

It is a long way from the cotton fields of Alabama to the valley of the Nile. It would be foolhardy to suggest a direct connection between emancipation of the negro field hand of America and the changing lot of the fellaheen in Northeast Africa, or to associate a war of secession in the United States with an agricultural revolution in Egypt. To go even farther, it seems fantastic to consider the rebel Jefferson Davis as in any sense the forerunner of the rebel Arabi Pasha, to conceive the Confederate bombardment of Fort Sumter in 1861 as an indirect cause of a British bombardment of Alexandria in 1882. Nevertheless, one cannot study the history of Egypt during the last half of the nineteenth century without being profoundly impressed by the importance of the American Civil War in the making of modern Egypt; without realizing that the production of Egyptian cotton, stimulated by the blockade of Southern ports, contributed materially to the development of important British interests in Egypt; without feeling that the resulting increase in cotton exports from the Nile Valley to Lancashire was a factor in the eventual British occupation of Egypt. It is a commonplace among historians that the discovery of America and of the sea routes to the east in the fifteenth century resulted in an economic decline of the Mediterranean region, from which Egypt in common with her neighbors suffered severely. It is not so well known that four years of civil war in America in the



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nineteenth century offered Egypt an opportunity which she eagerly seized to make herself once more an integral part of the complicated economic organism of the world, thereby contributing materially to her increased prosperity and her enhanced importance in world politics. That this opportunity came at the very time that Ferdinand de Lesseps was pushing to completion another project associated with the making of modern Egypt—the Suez Canal—makes the phenomenon of even greater significance.

## The Economic Revolution in Egypt, 1861–1866

Egypt experienced an economic revolution during the years 1861 to 1866. Grasping the opportunity offered by the impending scarcity of American cotton, and stimulated to almost feverish activity by the rapidly rising prices of that commodity, Egyptian cultivators from the poorest fellah to the Viceroy himself turned their attention in the latter part of 1861 to the production of bumper crops for the succeeding year. With viceregal encouragement, machinery for planting, irrigation, seeding, cleaning and packing was imported from England and America. The area under cotton cultivation was extended, whereas the cultivation of other crops was sharply curtailed. Normally a producer of a surplus of grain and cereals for export, Egypt by 1864 had subordinated all other agriculture to the production of cotton; as a consequence the country was dependent upon the outside world for food for man and beast, and in the interior, by reason of the difficulties of transportation of foodstuffs from the coast, there was much suffering if not actual famine conditions. In short, Egypt was transformed from a more or less self-sufficient agricultural region to a one-crop country dependent for existence upon a flourishing export and import trade. Although the restoration of peace in America brought a salutary partial readjustment, Egypt never returned to her agricultural position of 1860. Unlike other regions which had been stimulated to abnormal cotton production by the "cotton famine" of 1862 to 1865, she was not forced back into her ante-bellum position of comparative unimportance. The closest student of cotton-growing in Egypt

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

says that had it not been for the American Civil War and the crisis produced thereby, it would have taken Egyptian cotton a half-century to achieve the position it had secured by 1865.[1]

Cotton accounts for much of the history of Egypt during the past half-century. It should not be understood, however, that cotton cultivation in Egypt began with the American Civil War. During the eighteenth century Egypt produced not only enough cotton for her own modest needs but a small exportable surplus which found its way to North Africa, Syria, and France.[2] But in quantity Egyptian cotton was comparatively unimportant, and in quality it appears to have been distinctly inferior to the East Indian product. Napoleon, apparently aware of the potentialities of Egypt, brought with his military invasion of the Nile Valley agricultural experts who pointed out that conditions there were equally favorable to those in America for the production of cotton and expressed the opinion that with a little encouragement and intelligent direction Egypt might rival India and the Carolinas.[3] Although Napoleon's tenure of the Nile was of too brief duration to permit active measures under his auspices for the development of Egyptian cotton cultivation,[4] the industrial revolution in Europe and the consequent expansion of the British, French and American cotton industries placed a premium upon the production of the raw material wherever climatic conditions were favorable.

Hence where Napoleon left off Mehemet Ali began. In

[1] Francois Charles Roux, *La production du coton en Égypte* (Paris, 1908), chapters ii and iii; J. A. B. Scherer, *Cotton as a World Power* (New York, 1916), chapters lvi and lxxiii. M. Roux's volume is the best general history of cotton-growing in Egypt, but is marred, unfortunately, by the author's failure to consult English sources.

[2] See P. Masson, *Histoire du commerce française dans le Levant au xviii siècle* (Paris, 1911).

[3] Roux, *op. cit.*, pp. 13-19 and 402, cites in particular a report by a certain Citizen Nectoux, *Projet d'un établissement d'agriculture en Égypte,* published during Napoleon's campaign in Egypt. See also C. de la Jonquière, *Histoire de l'expédition de l'Égypte* (5 volumes, Paris, 1907).

[4] During these same years 1799-1800 active measures were being pursued by Manchester cotton dealers in cooperation with the East India Company to stimulate cotton exports from India to England. Thomas Ellison, *The Cotton Trade of Great Britain* (London, 1886), pp. 83-84.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

1820 a Frenchman, M. Jumel, with the aid and encouragement of the Pasha and of a Cairo merchant, undertook extensive experimental work in cotton cultivation and succeeded in producing a fibre of exceptional quality which came to be recognized as superior to any but the very best American product. Almost immediately thereafter Egypt began the production of cotton for export, and by 1823 had developed a profitable, if modest, trade with Lancashire.[1] In 1853, the Egyptian government brought to Cairo from Savannah an American cotton expert, Mr. Salters Elliot, as chief of an experimental service to improve the existing Egyptian plant and to attempt the cultivation of Sea Island cotton along the Nile. Fifteen years later the first American cotton gin was introduced in Egypt, and conscientious attempts were made to improve existing methods of cleaning and packing the product for shipment. As a result of all these measures, Egyptian cotton production for export grew from an insignificant amount in 1820 to more than fifty million pounds in 1860. Nevertheless, this was less than one-fourth of the East Indian exports in the latter year and only about one thirty-fifth of the American exports for the fiscal year 1859–1860. Less than five per cent of the cotton imports of the United Kingdom in 1860 came from Egypt. Hence on the eve of the American Civil War it could hardly be said that Egypt was one of the principal, much less one of the indispensable, cotton-producing areas of the world.[2]

## Problem of the British Cotton Supply

So nearly complete was the American monopoly of the world's cotton supply that for ten years before the Civil War thoughtful British manufacturers were genuinely alarmed lest

[1] E. J. Donnell, *Chronological and Statistical History of Cotton* (New York, 1872), p. 91; *Rapport sur les cotons Jumel recoltés en Égypte* (Archives de la chambre de commerce de Marseilles, 1824); J. L. Watkins, *Production and Price of Cotton for One Hundred Years* (Washington, United States Department of Agriculture, 1895), pp. 8 *et seq.*

F. C. Roux, *op. cit.*, pp. 21-55; Ellison, *op. cit.*, p. 91 and Appendix, table 1; M. B. Hammond, *The Cotton Industry—An Essay in American Economic History* (Ithaca, N. Y., 1897), chapter ix. The attempt to grow Sea Island cotton in Egypt was abandoned.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

there be some political or economic disturbance in the Southern States which would paralyze Lancashire industry. There was much discussion among business men concerning the national advantage of producing Britain's raw materials in territories under British political control. There was some talk among philanthropists of refusing to buy cotton stained with negro blood, of abolishing slavery by boycotting the Southern planter if and when cotton could be obtained elsewhere.[1] There was also the painful intelligence made available by the statisticians that the number of spindles in British and Continental mills appeared to be increasing much faster than the American supply of raw cotton. And as the decade 1850–1860 wore on, there were no striking developments to indicate a forthcoming change in the prevailing conditions; the political feud between North and South did not subside, there was little prospect of cleansing American cotton of the stain of slavery, and Northern resistance was stiffening on the question of extending the area within which slavery would be permitted and hence within which additional cotton plantations could be established.

It was in these circumstances that there was formed in Manchester in 1857 the Cotton Supply Association, which "originated in the prospective fears of a portion of the trade that some dire calamity must inevitably, sooner or later, overtake the cotton manufacture of Lancashire, whose vast superstructure had so long rested upon the treacherous foundations of restricted slave labour, as the main source of supply for its raw material".[2] It was therefore considered to be the function and duty of this association to seek non-American sources of cotton supply by every means at its disposal. Its first task appeared to be one of research and inquiry, in which it received con-

[1] See an illuminating article in DeBow's *Commercial Review of the South and West,* vol. VIII (New Orleans, 1850), pp. 20-22, entitled "British Competition in the Production of Cotton". This contains an analysis of the prevailing temper of the British press and attempts to quiet British nerves by reasserting an inevitable Southern supremacy.

[2] *Fifth Annual Report of the Cotton Supply Association* (Manchester, 1862), p. 5.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

siderable assistance from the Foreign Office and from the British consular service. A systematic canvass was made of the actual and potential cotton-growing areas of the world, including Egypt, and experimental work was undertaken on a small scale.[1] The initial mistakes of the Cotton Supply Association appear to have been made in placing too much reliance upon India, which, unlike Egypt, was a British possession and was then very much in the public eye by reason of the Sepoy Mutiny and the transfer of governmental authority from the East India Company to the Crown. But, as will presently be shown, India was not in a position to satisfy the demands of the situation either before or after the outbreak of the War of Secession in America. The work of the association was warmly supported by the Manchester Chamber of Commerce and in September, 1860, was reinforced by the newly-formed Manchester Cotton Company, intended to "encourage and promote the increased cultivation of cotton in every part of the world suited to its growth". At the organization meeting of this company the presiding officer, a member of Parliament, indicated the spirit in which its work would be conducted:

> Is it safe, is it discreet, for a commercial country to depend mainly on one source of supply—and that a foreign source—for the chief part of its raw material? If unhappily some great calamity should arise—if disease should attack the black population of North America—if revolt should occur there—if tempest should destroy a crop—what recriminations should we hear on the part of statesmen, and merchants, traders, manufacturers, and spinners about the negligence and culpability of some persons who had not, by provident regulation, arranged for more regular and less dependent supply of this great raw material.[2]

The hold of American cotton on the British market was so strong, however, that it was not until after the actual outbreak of hostilities in America that the Cotton Supply Association and its co-workers received anything like adequate support

[1] Concerning assistance rendered by His Majesty's Government to the Cotton Supply Association, see *Hansard,* Third Series, vol. CLXIX (1863), pp. 582-591.

[2] Quoted by John Watts, *The Facts of the Cotton Famine* (London and Manchester, 1866), p. 438.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

from Lancashire manufacturers. There existed a false sense of security among those whose financial interests would suffer keenly from an interruption of raw cotton supplies. Englishmen generally doubted that the "cloud no bigger than a negro's hand" could be portent of a tempest in America; they did not believe war would come and were convinced that, if it did come, it would not last long. A writer in *All The Year Round*, presumably the editor, Charles Dickens, in an issue of December, 1862, criticized bitterly the apathy which had existed on the very eve of the War. The warnings of "impertinent people" in Parliament and the press concerning the impending storm and concerning a British subsidy of Southern slavery were ignored. The cotton interests of Manchester, he said,

> were too much buried in the cotton to quite believe in the cloud; and as for the slavery, they supposed it would and must be. They could not help it and were very sorry—as people who cannot help it always are; and if every bale of cotton was really steeped in the blood of the negro, as philanthropists declared, all they could say was that they never saw any signs of it. Being wise traders, they said, they bought in the best and cheapest markets; but as foolish traders, others replied, they would not see what everybody else saw, that that best and cheapest market would, one day, become not only the worst and dearest market, but no market at all.[1]

And so it proved to be, for in 1862, by reason of the blockade the receipts of American cotton dropped to an insignificant fraction of the normal imports.

## EGYPT VERSUS INDIA

During 1861 and the first six months of 1862, before the cotton famine[2] reached its most acute stage, entirely too much

[1] *All the Year Round*, vol. VIII (London, 1862-1863), p. 322.

[2] This is not the place to enter into a general history of the cotton famine. Fortunately, there are a number of adequate accounts, among which may be mentioned: R. Arthur Arnold, *History of the Cotton Famine* (London, 1864); John Watts, *op. cit.;* James L. Watkins, *King Cotton: A Historical and Statistical Review, 1790-1908* (New York, 1908); L. B. Schmidt, *The Influence of Wheat and Cotton on Anglo-American Relations during the Civil War, in*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

reliance was placed upon India as the region which would make good the deficiencies occasioned by the blockade of Southern ports. Had India been the hoped-for success in cotton production, Egypt hardly could have come to occupy her present position in British cotton policy. But India was a great disappointment, and India's failure was Egypt's opportunity. It was not that India did not supply England with large quantities of cotton during the crises of the sixties—her contributions during these years were always considerable,[1] and at no time were they eclipsed in quantity by the Egyptian output. But Indian cotton was no substitute for the high-quality product of American plantations; Egyptian cotton, on the other hand, was the equal of any except Sea Island. Experience of Civil War time demonstrated that the restoration of peace in America would almost certainly displace Indian cotton in the English market, whereas there was every indication that increased Egyptian production would come to stay.

It is perhaps advisable to digress long enough to see why Egypt won a place for herself in spite of Indian competition. Manchester never had liked "Surat", or Indian, cotton. It was short-staple, ill-prepared, ill-cleaned, and even adulterated with such foreign substances as mud, leaves, and stones. Laborers complained that it required more work for poorer results; calico printers said it destroyed their patterns; tradesmen and consumers grumbled at the coarseness of the product. Although Surat was used extensively on the continent of Europe, the prejudice against it seems to have been almost as deep-rooted in Lille and Rouen as in Manchester. Inadequate transportation from the interior of India to the seaboard, as well as a long and expensive voyage around the Cape of Good Hope

*Iowa Journal of History and Politics*, vol. XVI (Iowa City, 1918), pp. 400-439; E. D. Adams, *Great Britain and the American Civil War* (2 vols., New York, 1925), vol. II, ch. x. There is, of course, much useful material in the lives and works of such statesmen as Bright, Cobden, Charles Francis Adams, Gladstone, Palmerston, and Seward.

[1] Increased cotton imports from India, 1861-65, indicated not so much increased production of cotton in India as diversion of the raw material from Indian to English manufactures.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

or overland through Egypt to Europe, materially increased the cost of this inferior raw material. The Indian output was inadequate to meet the demand created by the cotton famine, and the yield per acre was so small that an area six times as great would have been required to produce a given quantity in India as in Egypt. To remedy all of these deficiencies would have necessitated: first, extensive governmental investments in transportation, irrigation, and experimentation; second, extensive private investments, principally by English cotton manufacturers, in plantation lands and in machinery for cultivating, ginning, cleaning, and pressing the crop.

What was required to grow suitable cotton in sufficient quantities, it was said, was "Confidence, Capital and Coolies". Of these India seemed able to supply only the coolies, and the other requisites were not forthcoming from Great Britain. His Majesty's Government refused for fiscal reasons to undertake far-reaching projects of transportation and irrigation; it even objected to the appointment of a Royal Commission of Investigation, on the ground that it was not the function of the Government to undertake the supply of any article or to divert capital investments from the channels in which they would normally flow. All that could be hoped for from Lord Palmerston and his colleagues, therefore, was cordial cooperation with the Cotton Supply Association.[1] But private capital declined to be drawn in where the Government refused to tread. Manchester interests were fearful that the eventual return of the American crop would seriously depreciate investments in Indian plantations. They were suspicious, also, that increased cotton production in India might serve ultimately as a stimulus to Indian cotton manufactures to the consequent disadvantage of Lancashire. For these reasons the efforts of the Cotton Supply Association in India achieved meagre results; in an unguarded moment in 1862 Mr. Cheetham, president of the Association, said in a public speech at Manchester that what they had principally learned from their investigations in India was "how to produce the worst cotton grown on the face of the

[1] *Hansard, loc. cit.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

earth".[1] It was not India, but Egypt, which was to be the principal beneficiary of the cotton famine occasioned by the War for Southern Independence.[2]

Egypt seemed to possess none of the outstanding disadvantages of India. No known climate or soil in the world was better adapted to the cultivation of cotton than the climate and soil of Egypt. Her cotton was of high quality; the product per acre was equal to that of the Southern States on the average; the absence of rain gave security against loss or damage to the crop. Egypt possessed an abundant supply of cheap labor, capable of being effectively mobilized by the planters and by the government.[3] There was no danger that Egypt would develop an indigenous cotton industry to plague France and the United Kingdom; the experiment had been tried by Mehemet Ali and had been a costly failure. Transportation was no serious problem, and irrigation could be developed as occasion required and as the Egyptian government could find the funds. The encouragement of cotton cultivation in Egypt would require comparatively small investments of capital, inasmuch as the Egyptian cultivators, including the Viceroy himself, were eager to extend the area devoted to cotton and demanded technical assistance rather than a financial subsidy. The evidence seemed to indicate that Egypt could more than hold her own when the Southern United States should return to the world's market. And if Egypt were not under the con-

[1] *The Times* (London), August 14, 1862.

[2] G. R. Haywood, secretary of the Cotton Supply Association, *India as a Source for the Supply of Cotton* (Manchester, 1862); Joseph Gibbs, *Cotton Cultivation in India and Other Countries* (London, 1862); *Hansard,* Third Series, vol. CLXXII (1863), pp. 178-188; "The State and Prospects of Cotton", in *All the Year Round,* vol. VIII (London, 1863), pp. 322-331; A. Andrews, "Cotton Possibilities", in *The New Monthly Magazine,* vol. 132 (London, 1864), pp. 70-77, 449-461; F. Verdeil, "La disette du coton en Angleterre et les comités de prévoyance", in *Revue des deux mondes,* vol. 43 (Paris, 1863), pp. 211-227.

[3] Actually, there were some labor difficulties during 1862 in connection with conscription of the fellaheen for labor on the Suez Canal; these seem to have been adjusted later, however. See despatch of American consul at Alexandria to the Secretary of State in *Foreign Relations of the United States,* 1862 (Washington, 1863), p. 1103.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

trol of British or French imperialism, at least it could be said that the rule of Saïd Pasha was enlightened and capable.

## EGYPT AND THE COTTON SUPPLY ASSOCIATION

Thus British cotton experts, including the secretary of the Cotton Supply Association, expressed the opinion that Egypt was the most promising single area for the cultivation of cotton under the then existing conditions.[1] Mr. J. Caird, a member of Parliament for Stirling, who had made a study of the cotton problem and had just returned from a tour of the cotton-growing countries of the Mediterranean, testified in the House of Commons in July, 1863, that "Egypt possessed immense capacity for a rapid extension of cotton culture, and the greatest exertions which enormous profits can prompt are at this moment being made." In Mr. Caird's judgment, Egypt with some help from the other Mediterranean countries was capable of producing twenty-five per cent of the world's cotton crop.[2] In France, too, where the merchants of Marseilles and the manufacturers of Rouen had a long-standing interest in Egyptian cotton, there was a marked disposition to develop the cotton resources of Egypt and to depend thereafter, as far as possible, upon supplies from Alexandria rather than New Orleans.[3]

Developments in Egypt seemed to justify the prevailing optimism. As early as July, 1861, the American consul at Alexandria, Mr. W. S. Thayer, wrote the Secretary of State at Washington that all Egypt was alert to the opportunity presented by the war in America:

In expectation of a scarcity in England, some of the commercial houses of Alexandria are sending agents into the interior to buy up the

[1] Haywood, *op. cit.* See also files of the *Cotton Supply Reporter* published at Manchester by the Cotton Supply Association.

[2] *Hansard,* Third Series, vol. CLXXII (1863), pp. 180-181.

[3] Elisée Reclus, "Le coton et la crise américaine", in *Revue des deux mondes,* vol. 37 (Paris, 1862), pp. 176-208; this article is perhaps the best general survey of the international effects of the cotton famine written at the time of the crisis. France devoted less attention to Egypt than would have been the case had her colonial office not been so busy promoting cotton cultivation in Algeria. See, *e. g.,* Watts, *op. cit.,* pp. 404-405; Roux, *op. cit.,* pp. 90-94.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cotton in advance. But so well understood is the condition of the cotton growing region of the United States, even by the poorest fellahs, that it is difficult to persuade them to sell on terms which heretofore they would have been delighted to accept.

Mr. Thayer also reported that Egypt was shortly to be visited by a mission from the Cotton Supply Association of Manchester, and that the Viceroy apparently was prepared to restore a number of irrigation canals which at the moment were obstructed and were hindering the development of cotton cultivation.[1]

Mr. G. R. Haywood, secretary of the Cotton Supply Association and representative of the Manchester Cotton Company, arrived in Egypt in the latter part of July, 1861, accompanied by Dr. Forbes Watson, appointed for the occasion by His Majesty's Government. Haywood bore letters from Earl Russel and was aided materially, under instructions from the Foreign Office, by the British consul-general. The Viceroy, Saïd Pasha, was presented with a memorial from the Cotton Supply Association, pointing out the unprecedented opportunity for the profitable extension of cotton culture in Egypt, and offering to the Egyptian Government and Egyptian cultivators every assistance which the association was in a position to render. Haywood's commission visited many estates then devoted to cotton, surveyed the areas capable of cotton growing, and addressed a report to the Viceroy. They recommended the employment of skilled supervisors and the utilization of modern machinery. After Haywood's departure, the Cotton Supply Association despatched superior seed, with detailed instructions for planting and cultivation, to numbers of Egyptian cultivators and also shipped improved gins to the Viceroy himself.[2]

The succeeding summer Saïd Pasha visited England and was royally received. Upon his arrival in Manchester, July 9, 1862, he was met by deputations from the municipal corporation, the

[1] *Foreign Relations of the United States,* 1861-1862 (Washington, 1862), Part I, p. 423.

[2] *Fifth Annual Report of the Cotton Supply Association* (Manchester, 1862), pp. 15-16.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Chamber of Commerce, and the Cotton Supply Association. Next day he was the guest at an impressive ceremony in the Town Hall. The speeches were largely devoted to the subject of cotton, with incidental reference to the Suez Canal. Mr. Henry Ashworth, president of the Manchester Chamber of Commerce, thanked His Highness for the benefits he had conferred upon Lancashire and upon the world at large by "the encouragement he had given in his dominions to the cultivation of cotton". Mr. John Cheetham, president of the Cotton Supply Association, said that his association expressed "their belief that the one hundred thousand bales of excellent cotton received during the present year, and which had proved so acceptable to our manufacturers, were a mere trifle compared with what Egypt will furnish when its capacities are fairly tested; and their gratification to learn that the coming year will probably witness a largely increased export to this country". His Highness replied that he felt confident in promising for the succeeding year "if not double the amount of the last crop, at least an increase of one-half."[1]

His visit to Manchester made a deep impression on the Viceroy. Upon his return to Egypt he entered actively upon projects not only for extending the area under cotton cultivation but also for avoiding the imperfections in seeding, cleaning, and packing which had made Indian cotton so unpopular in Great Britain. It is worth while in this connection to hear the testimony of the American consul at Alexandria, whose reports throughout the years 1861–1865 are a valuable source for the study of Egyptian economic history. Writing to the Secretary of State in November, 1862, predicting a record Egyptian crop in the coming year, Mr. Thayer said:

> The Viceroy has exerted his influence to aid in the increased cultivation. During his recent visit in England he assured the manufacturers of Manchester that the next year's crop should be at least one-half greater than in any previous year; and he has accordingly advised all the large native proprietors hereafter to sow one quarter of their land with cotton. As the advice of his Highness is practically equivalent

[1] *The Times* (London), July 9 and 10, 1862.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to a command, the proprietors have commenced by importing large quantities of seed and various labor-saving machines for planting and irrigating the soil, and the many steamers and sailing vessels which arrive in this port are constantly bringing the most improved patterns of cotton-gins and other inventions calculated to expedite the great agricultural revolution now in progress . . . [Since June, 1861, the number of steam cotton-cleaning establishments has increased from 24 to 50, and] the fellahs themselves are beginning to see how the high prices now ruling at Alexandria render desirable a more rapid preparation of their great staple, and the prospect is that before the markets of the world recover from the effects of the war in America, the old-fashioned hand machinery will have passed out of use.[1]

## The Stimulus of High Prices

But, as Mr. Thayer very correctly pointed out, the greatest factor in the increased cotton production of Egypt was neither the activity of the Cotton Supply Association nor the interest of Saïd the Viceroy. It was the irresistible appeal of high prices, occasioned by the blockade of Southern ports and the consequent cotton famine throughout Europe. High prices meant fabulous profits for all who would forsake other occupations and grow cotton. Cotton prices at Alexandria fluctuated with the fortunes of the belligerents in America. The American consul wrote that "prices vary principally with the spirit of the daily telegrams from the Liverpool market and the impressions as to the probability of peace in America entertained by the mercantile community of Liverpool and Alexandria. A decided victory on the part of the Union forces tells ordinarily in a depreciation of price".[2] The capture of New Orleans, for example, and a Northern order to ship cotton from the available stores at that port angered Alexandria speculators counting on a rise in price.

It is not necessary at this point to go into a statistical study of cotton prices during the first half-decade of the sixties. Suffice it to say that in October, 1861, the price of cotton at

[1] *Foreign Relations of the United States,* 1862 (Washington, 1863), pp. 1101-1102.

[2] *Ibid.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Liverpool was slightly less than twice the average monthly pric for 1860; by October, 1862, it more than doubled again throughout 1863 and 1864 the average price remained mor than four times that prevailing before the outbreak of the Civi War. Although there was a sharp drop in 1865 and again in 1866, it was not until after 1870 that prices even approximated those of antebellum days.[1] Liverpool prices were reflected in the demand for cotton at Alexandria, and Egyptian cotton cultivators reaped fantastic profits. According to a statement made in the House of Commons in 1863 the produce of an acre of cotton in Egypt, which previous to 1860 was worth not more than five pounds sterling, yielded upward of twenty pounds sterling in 1862.[2] Although the amount of the Egyptian crop increased less than fifty per cent from 1861 to 1862, its value increased almost three hundred and fifty per cent, and the succeeding year a similar increase in bulk brought an increase of almost two hundred per cent in money returns. An almost inevitable consequence of such phenomenal profits was the rapid extension of cotton cultivation in Egypt, the development of an active cotton export trade to Europe, and the partial abandonment of other forms of economic activity. The following table reflects these tendencies:[3]

| | Cotton Production for Export in Quintals | Value of Cotton Exports in Pounds Turkish | Value of Total Exports, Pounds Turkish |
|---|---|---|---|
| 1860 | 501,324 | 1,107,788 | 3,090,983 |
| 1861 | 596,200 | 1,430,880 | 3,743,410 |
| 1862 | 820,110 | 4,920,660 | 7,806,940 |
| 1863 | 1,287,000 | 9,356,490 | 12,031,450 |
| 1864 | 1,740,000 | 14,842,700 | 16,445,710 |
| 1865 | 2,507,000 | 15,443,120 | 16,861,350 |

[1] Arnold, *op. cit.*, pp. 80-82; Ellison, *op. cit.*, p. 91; *Foreign Relations of the United States*, 1862, p. 1101.

[2] *Hansard*, Third Series, vol. CLXXII (1863), pp. 180-181.

[3] Roux, *op. cit.*, pp. 80-84. A quintal was approximately one hundred pounds; a Turkish pound is the equivalent of $4.40. See *Statistique de l'Égypte* (Cairo, Ministry of the Interior, 1873), part II, pp. 1-3. More recently the quintal has been taken to represent one hundred kilograms rather than one hundred pounds.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It will be seen from the above that in volume Egyptian cotton exports increased about five hundred per cent between 1860 and 1865; in the former year Egypt furnished only about three per cent of all the cotton imported into Great Britain and the Continent, in the latter over twelve per cent. This was a record which, relatively speaking, was far superior to that of India during the same period.[1] The increase in the value of the Egyptian crop—about fourteen hundred per cent during the five-year period—is even more striking. Likewise impressive was the fact that cotton exports increased from about thirty-six to about ninety-two per cent of the total Egyptian exports. A veritable cotton fever had overtaken the country, infecting its entire economic and political system.

Gold flowed into the coffers of Egyptians of all classes, if we can accept the contemporary accounts of European observers. In 1865 it was estimated that the taxes paid to the Pasha by reason of the phenomenal prosperity of the country reached the unprecedented figure of a billion and a half of Turkish piastres (about sixty-six million dollars), thus launching the new Viceroy, Ismail Pasha, on his career of grotesque extravagance which was to terminate only with the British occupation in 1882.[2] The British consul at Alexandria reported that:

> The value of land was quadrupled; wages rose in an equal ratio; labourers earned so easily sufficient for their wants that they became indolent; an excessive luxury sprung up, and that not of a nature to benefit the commercial world, being displayed in a demand for white slave girls, costly pipes, and other such appliances, which do not bene-

[1] Indian exports to Europe mounted from 552 thousand bales (of 400 pounds) in 1860 to 1,231 thousand bales in 1865, an increase of only about two hundred and fifty per cent. Whereas in 1862 Egyptian exports were equivalent to only about one-fourth of the Indian exports, in 1865 they were about two-fifths of the latter. And, as Roux points out, whereas the increased Egyptian exports represented a greatly increased production, those of India in considerable degree were the result of a diversion of essential raw materials from the Indian to British manufactures. Roux, *op. cit.*, pp. 89-91. The above percentages are based upon Ellison, *op. cit.*, p. 91, and Hammond, *op. cit.*, p. 261.

[2] Roux, *op. cit.*, pp. 83-85. Ismail became viceroy in 1863 and Khedive in 1866.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

fit the industrious world without. Meanwhile the land, from the constant crops of cotton in succession, has become impoverished.[1]

Foreigners flocked to Egypt to share in the wave of prosperity. The average number of Europeans arriving annually in Egypt from 1857 to 1861 was thirty thousand. In 1862 the figure was 37,200; 1863, 43,300; in 1864, 56,500; in 1865, 79,900; but in 1866, when the boom received a temporary set-back, the number dropped to fifty thousand. These knights-errant of European civilization, representing every interest from cotton experts and engineers to confidence men and criminals, set up in Egypt a foreign population with vested rights which western nations like Great Britain and France were zealous to protect.[2]

Naturally enough, the rise of Egypt to a position of world prominence as a producer of high-grade cotton attracted considerable attention in America and Great Britain. From the United States, William H. Seward, the Secretary of State, wrote to the American consul at Alexandria:

> The information of the progress and increase of cotton culture in Egypt is of such vast importance to our own country that I shall cause it to be published here without delay. The insurrectionary cotton states will be blind to their own welfare if they do not see how their prosperity and all their hopes are passing away, when they find Egypt, Asia Minor, and India supplying the world with cotton, and California furnishing the gold for its purchase.[3]

The *North American Review* was of the opinion that "Egypt is placing herself in a position from which she cannot easily be driven, even when Yankee intelligence and free labor shall be fully applied to cotton cultivation in this country".[4] That

[1] A report dated April 3, 1867, and printed in *Accounts and Papers, Commercial Reports,* 1867, vol. LXVII, pp. 299-300. The American consul likewise reported great prosperity and ostentatious spending. *Foreign Relations of the United States,* 1862 to 1865, *passim.*

[2] Large numbers of these foreigners subsequently returned to Europe, as there were only about 100,000 Europeans resident in Egypt in 1876. *Accounts and Papers, op. cit.,* p. 302. The figures do not include travelers crossing Egypt en route to India.

[3] *Foreign Relations of the United States,* 1862, p. 1107.

[4] Vol. 98 (Boston, 1864), p. 482.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

there was some nervousness among Southerners concerning the development of cotton culture in Egypt and elsewhere cannot be doubted.[1]

## The New Significance of Egypt to Great Britain

It was realized, also, that the developments in Egypt were not without political significance. British journalists pointed out that the only permanent obstacle to the more extensive development of cotton culture in the Nile Valley was an autocratic Oriental government supervising an archaic economic system. Saïd Pasha, the enlightened, had been succeeded by Ismail, the profligate, and foreign interests were considered less secure. According to the *Westminster Review*, for example, this combination of economic progress and political retrogression was a matter of concern to every Englishman:

> It touches not only our moral sensibilities, but our material interests. Egypt has become one of the outlying colonies of England. It is the seat of a great English trade, and—so to speak—of an important English cultivation. We import from Egypt under normal conditions grain to the value of 611,880 pounds sterling annually. We import already cotton to the value of two millions. We hope to extend this cultivation indefinitely. We have already invested a large capital in the country. The rare excellence of its climate and fertility of its soil seem to promise fair returns for larger investments. Much of our future wealth is bound up with the fortunes of Egypt. But those fortunes depend on the tranquility of the country; and the tranquility of the country depends on the security which its government extends to life, liberty, and property.[2]

Thus early were Englishmen becoming interested in "law and order" in Egypt. That such would be the case had been suspected a year sooner in America, when an editor ventured an

[1] See the work of a Southerner, George McHenry, *The Cotton Trade, Its Bearing upon the Prosperity of Great Britain and Commerce of the American Republics, considered in connection with the system of Negro slavery in the Confederate States,* published in London in 1863. An attempt to show why Great Britain should continue to look to the South rather than elsewhere for her cotton supplies. See also *supra,* p. 524, note 1.

[2] *Westminster Review,* American edition, vol. 84 (New York, 1865), p 228.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

opinion that if Egypt should continue to increase her contributions to the world's cotton supply, "it is not to be supposed that any dogma of non-intervention will prevent England and France from taking measures to secure the permanence of such supply, even at the expense of a joint protectorate".[1] Napoleon is said to have remarked that only in Egypt does the government have control over rainfall, for there by foresight or negligence the administration may determine whether or no there shall be conservation and distribution of the rainfall by irrigation. This was a consideration which ultimately could not be overlooked.[2]

That there should be no interruption in the Egyptian supply even after the termination of the American Civil War seemed to Englishmen a matter of great importance, inasmuch as none could foresee the results of peace. There was, however, a well-defined opinion that whichever way the war went there would be available a smaller supply of American cotton at higher prices. If the North should succeed in bringing the Southern States back into the Union, slavery would be abolished and the peculiar advantage of the United States in the cultivation of cotton would be at an end; in addition, there was the possibility that the conquered states would be punished by a heavy indemnity, which would send their costs of production still higher. Should the South win independence, she would be burdened with all the expenses of a sovereign state—interest on a large war debt, plus the cost of an army and navy for defence against a resentful and jealous Northern neighbor. Inasmuch as the only wealth available for taxation in the Confederate States would be directly or indirectly connected with cotton, the inevitable result would be a considerable increase in the costs of producing that great staple. In addition, slavery, cooped up within the restricted limits of the Confederacy and denied access to free and virgin territory to the north and west, might well become the most expensive sort of labor. Thus

[1] *North American Review*, vol. 98 (Boston, 1864), p. 482.

[2] Roux, *op. cit.*, pp. vi-vii.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

reasoned many Englishmen during the years 1863–1865.[1] Only John Bright and Richard Cobden seemed thoroughly convinced, as Bright said, that the North should win the war and that

> With slavery abolished, with freedom firmly established in the South, you would find in ten years to come a rapid increase in the growth of cotton, and not only would its growth be rapid, but its permanent increase would be secured.—There is no greater enemy to Lancashire, to its capital and to its labor, than the man who wishes the cotton agriculture of the Southern States to be continued under slave labor.[2]

In France, where suffering as a result of the cotton famine had been less acute than in England, there was considerable opinion to the effect that the reputed American genius for substituting machine for hand labor would assert itself and that the abolition or disintegration of the slave system would lead to an increased rather than a decreased supply of cotton from the Southern states.[3]

The termination of the Civil War and the return of Southern cotton to the markets of the world did not, as a matter of fact result in a permanent curtailment of the Egyptian output. There was, to be sure, a decline in production in 1866 and in the few years immediately following, but at no time was there any danger that Egyptian exports would fall to the figure of 1860—actually, they never fell below two and a half times the figure of 1860. The ability of Egypt to face Southern competition in this manner may be attributed principally to two facts. First, there had been much exaggeration in Europe concerning the accumulated supplies of cotton in the South awaiting opportunity to be dumped on the market with the conclusion of peace; and as it was some years before Southern production again reached normal, prices held up well enough to enable all but the least efficient Egyptian producers to continue to grow cotton at a profit. Second, the superior quality

[1] *Hansard,* Third Series, vol. CLXII (1863), pp. 181-183; Roux, *op. cit.,* pp. 75-76; *All the Year Round,* vol. VIII (London, 1863), pp. 329-330.

[2] *Ibid.,* vol. CLXI (1863), p. 1830. Cited by Schmidt, *loc. cit.,* pp. 420-421.

[3] Louis Reybaud, "La guerre d'amérique et le marché du coton", in *Revue des deux mondes,* vol. 56 (Paris, 1865), pp. 189-208.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the Egyptian fibre, which by this time had achieved a world-wide reputation, placed it outside and above competition based entirely upon price.' Egypt quickly recovered from her post-bellum slump, and by 1876 her exports were eighty million pounds (two hundred thousand bales) in excess of 1865. "The crisis occasioned by the War of Secession, therefore, was not a period of abnormal production, as much as it was the initiation of a new advance and the ushering in of a new era of continuously increasing production." Egypt had won for herself a place in the front rank of cotton-producing countries.[1]

In view of the paralysis of Lancashire industry resulting from the American Civil War, and in view of the sufferings of the working class and the heavy economic losses sustained by capitalists in connection with the cotton famine, it is small wonder that Englishmen should have maintained a keen interest thereafter in any region which, like Egypt, was capable of growing good cotton in adequate amounts. Cotton in itself would have drawn England to Egypt. But there were other forces at work as well. Beginning with 1862 and continuing through 1865 there was a notable increase in commerce between English and Egyptian ports. Whereas in 1860 only 414 British ships had cleared at Alexandria and in 1861 only 463, in 1862 there were 629; in 1863, 621; in 1864, 793; in 1865, 932. In 1866 there was a falling-off to 834. According to the British consul at Alexandria, who provided these figures, the increase in British shipping was almost entirely due to Egypt's war-time cotton boom:

> The development of railways, and the introduction of steam power for irrigation and cotton-gins and pressure, have added largely to the coal required for the country, and the wealth of the people, consequent on the profits derived from the cultivation of cotton, has largely contributed to the general use of British manufactured goods amongst the rural population. These two items [coal and cotton] were almost wholly carried in British ships; and it will be noticed that, in 1862,

[1] Roux, *op. cit.*, pp. 97-107; Ellison, *op. cit.*, pp. 142-143; A. F. Shepherdson, *Cotton Facts* (New York, 1878), based upon official data of the United States Department of Agriculture.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

when cotton was first planted to the almost total exclusion of cereals, the increase in the number of British vessels over the preceding year was extraordinary. This increase has since been fully maintained.[1]

The completion of the Suez Canal in 1869 and its subsequent purchase by the British Government in 1875 assured the continuance of a prosperous British shipping which the cotton revolution first served to promote.

During the seventies Lancashire manufacturers thought they saw another American menace to the cotton supply. There had been developing in the post-bellum United States an even more prosperous and healthy cotton-manufacturing industry than had existed before 1860—an industry which was to overflow New England and find its way down to a new home in the South. This worried Englishmen not only because of the competition it promised them in the finished product, but because —assuming that the world's output of raw cotton remained stationary—it put pressure upon their sources of supply. In 1873 American mills used three times as much cotton as in 1860; if this continued, might not the time come when so large a proportion of the American crop would be consumed at home that very little would be available for British manufactures? In these circumstances Egypt once more loomed large on the horizon.[2]

But things were not going as well in Egypt as might be hoped. Governmental incompetence and extravagance were making themselves felt throughout the country, and the cotton crop was not what it might have been either in quantity or in quality. Methods of cultivation continued to be wasteful. Irrigation lagged, and such as was undertaken did not conform to British and Anglo-Indian engineering standards. According to Lord Milner, "in the creation of the new irrigation works in the Delta, science and morality had alike been wanting. Private interest had ruled supreme in their construction. Tech-

[1] *Accounts and Papers, Commercial Reports,* 1867, vol. LXVII, p. 291.

[2] These developments are treated at some length in an article by John Ninet, "La culture du coton en Égypte, et les filateurs anglais", in *Revue des deux mondes,* Third Series, vol. XII (Paris, 1875), pp. 577-596.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nical skill had been conspicuous by its absence [the advice of French engineer-advisers having been persistently ignored]. As a consequence, every conceivable blunder and injustice had been committed." In some parts of the country there was a reckless waste of water and in other parts no water at all. And these, in the English view, were but "a few instances of the almost incredible tangle of mistakes, fatal to the fertility of the soil, and wasteful of the money of the Government and the labour of the people", which characterized the two or three decades immediately preceding the British occupation.[1] The climax in this comedy of mismanagement appeared to be reached in the year 1873–1874, precisely the time when there was some nervousness in England concerning the growing American cotton industry.[2]

For existing conditions in Egypt no one was more clearly and directly responsible than the Khedive. As the head of the government he was accountable for the prevailing maladministration and for the squandering of funds upon non-essentials while irrigation was neglected. As the largest single cultivator of cotton in Egypt, if not in the world, he was chargeable in large measure with the prevailing wastefulness and inefficiency in agricultural methods. The Khedive, it was asserted in England, not only mismanaged his own vast estates but interfered with cheap and adequate production by other landowners. He was warned, to be sure, that extravagance and profligacy would be his ultimate ruin. But Ismail was blind to the dictates of reason, prudence, and efficiency. He failed to realize the potentialities of Egypt as regards the production of those raw materials of modern industry for which the Western nations have developed a ravenous appetite.

Driven to exasperation by the Khedive, the cotton manufacturers of Great Britain turned to their own government for relief. In June, 1874, a deputation of six members of Parliament, representing districts notable for their textile manufactures, called upon Lord Derby at the Foreign Office to

[1] Alfred (Lord) Milner, *England in Egypt* (London, edition of 1899), pp. 235.

[2] *The Times* (London), May 26 and June 12, 1874.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

discuss the prevailing situation in Egyptian agriculture. They presented a memorial signed by all the leading cotton manufacturers using Egyptian raw materials, deploring the inability or unwillingness of the Egyptian Government to stimulate the growth of larger supplies of high-grade cotton at reasonable prices. Although Lord Derby promised nothing, the memorial appears to have been despatched to Cairo through diplomatic channels, and it elicited from Ismail one of his innumerable but ineffective promises of reform. The interest of British cotton manufacturers in the economic and political situation of Egypt had, however, been called forcibly to the attention of the Foreign Office. If his Britannic Majesty's Government should thereafter choose to move in the direction of intervention at the expense of the Khedive, it might not unreasonably expect a measure of support from Lancashire.[1]

## COTTON AND THE BRITISH OCCUPATION

The crisis of 1882 in Egypt was watched by British textile manufacturers with unconcealed anxiety. An almost immediate result of nationalist disturbance in Alexandria and Cairo was an increase in the Liverpool price of Egyptian cotton, which seriously disturbed the cotton trade and threatened to accentuate the dependence of British manufacturers upon the American supply. At Bolton alone, it was said, there were almost five million spindles largely or wholly engaged in the manufacture of Egyptian cotton; in the neighboring borough of Oldham there were perhaps two million more. In addition, the dependence of British agriculturists upon Egyptian cotton-seed fertilizer and of British soap-boilers upon Egyptian cotton-seed oil was strongly emphasized. In short, it appeared to Lancashire that vital British interests, as well as law and order and the authority of the Khedive, were being menaced by the nationalist uprising of Arabi Pasha. Almost two weeks before the British bombardment of Alexandria, the *Manchester Guar-*

[1] The *Manchester Guardian*, June 12, 1874, contains the text of the memorial; *The Times* (London), June 12, 1874, discusses the interview at the Foreign Office; arrival and reception of the memorial in Cairo are recounted, *ibid.*, August 5 and September 2, 1874. See also Ninet, *loc. cit.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*dian* indicated that a new cotton famine was on the horizon by reason of the prevailing disorder in Egypt:

> The unfortunate embroglio in Egypt is already having a most damaging effect upon the trade of Bolton and neighborhood. The class of yarns for which Bolton is noted can be spun only from the long-stapled Egyptian cotton. Thus the chief industry of Bolton has to depend almost entirely for the supply of its raw material upon Egypt. . . . At present no serious injury has been done to the crop but it is now almost at a state of maturity, and it is therefore of the utmost importance that it should receive the fullest attention from the native growers until August, when the gathering of the crop commences. Instead of this, however, European labour and capital are being driven from the country leaving the ripening crop to take care of itself.[1]

The withdrawal of native Egyptians from the agricultural districts to the military defense of Alexandria and Cairo confounded confusion, and led the *Guardian* to say that the serious character of the consequences to Lancashire made it strongly desirable, if not imperative, "that the present embroglio should be terminated as speedily as possible."[2]

It would be difficult to estimate the extent, if any, to which British cotton manufacturers supported or encouraged the eventual occupation of Egypt in July, 1882. Certainly their impatience with the failure of Ismail to get on with irrigation and more extended cotton cultivation must have been a factor in the rising dissatisfaction which the British Government was experiencing with the Egyptian situation. When the crisis actually arrived, it was openly charged in the House of Commons, July 12, 1882, that Gladstone's ministry was leaning heavily for support upon "Cotton Jingoes" sitting on the Liberal side of the House. The defense against the charge was more damning than the charge itself. The tenor of the defense was that Lancashire would not be prepared for the purposes of gain or considerations of economic advantage to endorse a policy of which she did not approve as regards Egypt. One member, who disliked the term "Cotton Jingoes," admitted,

[1] June 30, 1882. See also *ibid.*, July 10, 14, 17, 31, and August 1.

[2] *Ibid.*, July 10, 1882.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nevertheless, that the import trade from Egypt was of no small concern to Lancashire; furthermore, he was "quite sure that if it were possible to conceive that trade to be annihilated, there would be a loud cry from Manchester and other places interested." Joseph Chamberlain, watch-dog of Manchester industrial interests, observed that Great Britain took by far the largest portion of Egyptian exports and that men engaged in trade, "whether in Egypt or any other country, have a right to look to their Government for reasonable protection." [1]

Sir Charles Dilke, Under Secretary of State for Foreign Affairs, stated in the House of Commons, July 25, 1882, that:

> The result of English immigration to Egypt, and the introduction of English capital into Egypt, has been an enormous advance in the wealth and civilization of the Egyptian people. It is not of material prosperity alone that I speak, though that has enormously increased. Egypt sells us of cotton alone to the value of £6,000,000 every year. Very little of that cotton was grown a few years ago and all that may be said to be a pure increase in the wealth of Egypt. Intervention, however, is not to be defended on trade grounds, but on the grounds of necessity, Treaty right, and duty.[2]

This is perhaps as far as one can go in linking cotton with the British occupation. Cotton was not in the foreground during the diplomatic and military maneuvres leading to the bombardment of Alexandria, but it was never altogether in the background. In part, at least, Great Britain landed troops in Egypt and took over the civil administration of the country because there were British interests—legal, financial, and commercial—which were being menaced and demanded protection. Among these interests was cotton. And with the experiences of the cotton famine of 1861-1865 still fresh in memory, it would have been a rash British statesman indeed who would brush the cotton interest aside as inconsequential.

EDWARD MEAD EARLE

COLUMBIA UNIVERSITY

[1] *Hansard*, Third Series, vol. CCII (1882), pp. 171, 179-180, 186-187, 191, 1761, 1800-1801.

[2] *Ibid.*, p. 1721.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# THE EXPANSION OF INTERNATIONAL JURISDICTION

THE proper distribution of powers between the federal government on one side and the governments of the states on the other has always been one of the most perplexing and critical problems of constitutional law and government in the United States. It has been a serious problem in all federal unions in all ages. A similar problem exists in the field of international law and the practice of organized international cooperation to-day. Furthermore, that problem is becoming more and more important as the persistent defense of national independence clashes with the increasing need for international regulation. The next quarter-century is certain to be filled with much disputation concerning the "domestic" character of certain questions on one side and the proper scope of international jurisdiction on the other.[1]

It is customary to state the legalistic aspect of this situation in relatively simple form.[2] Certain matters, such as tariff duties, immigration, and the exploitation of natural resources, are, it is said, left by international law to complete regulation by the individual nation at its discretion. Or, conversely, it may be said that apart from this general principle itself and similar general limitations requiring the individual nation to treat the citizens and property of other nations equally, class for class, and requiring observance of any existing treaty agreements relating to the subject in question, there are no detailed rules of international law on the matter at all. The subject, it may be said, lies entirely outside of the field of international law and outside of its rules and principles.

[1] For the setting of the problem discussed in this paper and its treatment in the most general terms the reader is referred to the present writer's *Introduction to the Study of International Organization*, revised edition, chap. xxvi, particularly pp. 448-450.

[2] See Fenwick, C. G., *International Law*, pp. 43-44, and Wilson, G. G., *International Law*, 8th ed., pp. 4-5, as examples.



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Within the limits of the existing science of international law this is all perfectly sound. Such a position is relatively easy to establish; what is meant by such statements is clear,[1] and the absence of any accepted rules of international law on such vital matters in international relations as immigration and the distribution of raw materials is notorious. In this situation nations uneasy about their right to regulate such matters may feel reassured for the present. There is no doubt about the actual state of the law. But advocates of increased international regulation of the vital matters of international relations may just as clearly see their work cut out for them for the future.[2]

The purely legalistic aspect of the situation seems to neglect entirely what may be regarded as desirable in view of the facts of international life as they exist in the real world. It implies that the present state of the law is permanent. It suggests that a change would be undesirable and that no change may properly or wisely be made in the present distribution of topics between national and international jurisdiction. Thus it is said that international law "should not be" extended to cover purely "domestic affairs".[3] International law should be confined to the regulation of international questions. Such a position may be regarded as either begging the question or, on the other hand, preserving a careful scientific formula which takes account of all the really decisive factors in the situation.

Thus a reply might be made, in one sense, that if a matter be of purely domestic concern in fact there need be no fear that any nation will attempt to secure, or will consent to, the adoption of general international regulations dealing with the matter, and that if international law is found extending itself to

[1] It might be added that in taking such a position one ignores the possibility of working out rules of law applicable to the subject in question by analogy from accepted principles of the law applicable to other matters. Until such a development is inaugurated and brought to a stage where the new rules are embodied in written form or observed in practice, however, it is at least doubtful whether the analogical rules deserve to be regarded as established law.

[2] See Fenwick's vigorous views in his *International Law,* as cited, especially p. 44, and the views of Dr. Carlos Saavedra Lamas in his *Traités Internationaux de Type Social,* pp. 418-433.

[3] Wilson, *op. cit.,* p. 5.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

deal with a certain matter it may safely be concluded that that matter has taken on international importance. In a literal sense the formula quoted might thus appear to be merely an evasion.

On the other hand, if realistically applied, it is perfectly sound. What should be understood from the statement as made is that international law is not to be—will not be and may not be—applied to matters which in point of fact at any given time are of no importance for any nation except that nation which is directly concerned. So interpreted, the statement is both sound and salutary, and might almost be adopted as the final word on the whole problem.

There are, however, two additional considerations to be taken into account, which are after all merely two applications of one fact. In the first place, it is notable that even where a matter, such as customs tariff, is left to exclusive national regulation, representations concerning that matter may of right be made to the local state by any other state claiming an interest in the matter.[1] The local state may give such weight to these representations when they actually are made as it sees fit, in view of all the attendant circumstances, and retains the right finally to regulate the matter at hand according to its own free will and judgment. But neither does international law undertake to deny the right of representation where competing national interests exist nor does it assert that there are any so-called "domestic" matters with respect to which international interest may not exist.

Furthermore, it is just at this point that the process of transferring topics from national to international jurisdiction appears. The claim of an interest leads to the making of representations. The desire to avoid resentment and retaliation leads the receiving state to make reply, still reserving its legal discretion over the matter at hand. The method of treatment which soon suggests itself is that of voluntary mutual agreement, the negotiation of a treaty. Such treaties multiply and

[1] For an excellent statement of this familiar principle see Hanihara to Hughes, May 1, 1924, in *New York Times*, June 1, 1924.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

become the customary mode of treatment. Thereupon it is possible to claim that the matter is no longer suitable for regulation by unilateral national statutory action. The subject has thereby finally been transferred to the field of international regulation.[1]

This is substantially what has already happened in the field of extradition.[2] In the earlier part of the eighteenth century and indeed until well on toward the year 1800 the extradition of a fugitive criminal was held to be so much a matter for local national action that the nations very widely refused to make the matter a subject of treaty agreement. France seems to have led in securing the application of the method of treaty regulation to the action in question and in securing treaties dealing with the matter with first one and then another nation after 1759.[3] It was only in 1794 that Great Britain consented to allow her action in this matter to be regulated by international agreement.[4] Since that time, however, the making of extradition treaties has progressed so rapidly[5] that there now exists a

[1] The Permanent Court of International Justice made an illuminating statement descriptive of this process in its advisory opinion on the Tunis-Morocco nationality dispute between England and France: "The question whether a certain matter is or is not solely within the jurisdiction of a state is an essentially relative question; it depends on the development of international relations. Thus, in the present state of international law, questions of nationality are, in the opinion of the Court, in principle within this reserved domain." Permanent Court of International Justice, *Publications, Series B, Collection of Advisory Opinions, No. 4,* p. 24. The Court added that purely domestic matters might be made international by treaty: "the right of a State to use its discretion is nevertheless restricted by obligations which it may have undertaken toward other States."

[2] On the nature and history of extradition in general see Moore, J. B., *Extradition,* I, chap. i.

[3] *Ibid.,* I, p. 10.

[4] *British and Foreign State Papers,* I, p. 800. It was only in 1802 that Great Britain began to make treaties of extradition with European powers (F. de Martens, *Recueil des Traités,* VII, p. 404); as late as 1868 vigorous demands were made in Great Britain for withdrawing the matter from the field of treaty negotiations and placing it entirely upon the basis of national statutory action (see Gibbs, F. W., *Extradition Treaties,* London, 1868).

[5] The growth of British treaties of extradition is shown in *British and Foreign State Papers,* LXIV, p. 873, and XCIII, p. 719.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

complete network of such treaties in force among all nations and the conclusion of a general extradition convention has been recently proposed.[2] It is still agreed that extradition remains a matter for national regulation at discretion in absence of treaty agreement, thus reflecting the old situation before treaties were common in this field of action.[3] But it is equally true that refusal to conclude an extradition treaty would to-day be regarded as giving ground for complaint, and even as violating the requirements of international practice.[4]

Another approach to this matter may be made on the ground of legal theory. On several occasions the Supreme Court of the United States has had occasion to consider the proper scope of the treaty-making power of the federal government under the Constitution of the United States. Ordinarily the question has arisen in terms of the subjects with which the President and Senate may deal in the exercise of the treaty-making power. In one such case the Court, answering the general question as to what subjects were suitable for regulation by international treaty, said: "That the treaty power of the United States extends to all proper subjects of negotiation between our government and the governments of other nations is clear".[5] The Court then held that removal of the old disability to hold property in the local jurisdiction based on alienage was such a subject. It added the most significant statement: "Such removal has been within the present century the frequent subject of treaty arrangement".[6]

In other words, the practice of nations whereby one or another subject is voluntarily taken up for regulation by treaty

[1] For treaties of the United States in force in 1910 see *Treaties between the United States and Other Powers,* II, pp. 2446-2448.

[2] For a venture in this direction see the general extradition convention concluded among the Central American Republics in 1923, in *American Journal of International Law,* XVII, Supplement, p. 76.

[3] See the language of the United States Supreme Court in *United States v. Rauscher,* 1886, 119 U. S. 407.

[4] See opinions of Hyde, C. C., in his *International Law,* § 310, and Moore, J. B., *op. cit.,* § 14.

[5] *Geofroy v. Riggs,* 1890, 133 U. S. 258.

[6] *Ibid.,* 266-267.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

greement indicates not only the course of history but the state of the law. After a given subject has been *voluntarily* (let this be duly emphasized) given treaty regulation for some time, it is no longer possible to object that it is a subject improper for regulation in such a manner. It must soon become impossible to contend that it is a subject suitable for unilateral national statutory regulation. Finally it will be impossible to reject the demand for at least the opening of negotiations looking to an agreement on the question.

It may not be out of place to suggest here that this mode of transferring topics from the national to the international jurisdiction is superior to the method of constitutional amendment which must ordinarily be employed to transfer topics from state to federal jurisdiction in a national federal union. It is more flexible, more adaptable. It may be begun gradually, by the parties most readily disposed to make the change, and carried along gradually and tentatively likewise. It preserves the characteristics of natural growth and avoids the sharp jolts inseparable from the amendment of rigid constitutions.

The exact scope of what is here involved should also be noted. The obligation to submit a subject to the method of regulation by agreement does not directly involve an obligation to agree to any particular disposition of the problem in terms of subject matter. Both parties might still stand firmly for their own views. Negotiations might be protracted indefinitely provided the willingness to seek and reach an agreement be maintained. On the other hand, it would be difficult for the state formerly having full discretion over a subject under the older rules of jurisdiction to refute the charge of obstructionism if it refused indefinitely to come to agreement with the second state, even while still professing a willingness to continue negotiations. Further than that, once the subject is brought within the field of negotiation the first state would be compelled to bargain on this matter against all possible losses or considerations on all other matters within that field—commercial privileges, diplomatic retaliation, and what not. This is the most important practical aspect of the whole situation. Once admit the propriety of negotiation and all the hazards of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

gain and loss involved in that process of give and take must be assumed by both parties.

Finally, it is obvious that the defendant state, so to speak, would by this stage of development at least be stopped—politically if not legally—from regulation of the subject by unilateral action contrary to the interests of the second state. Having admitted the propriety of settlement by negotiation, the defendant state could hardly break into the process of negotiation by unilateral regulation on its own part. The net result in any event would be that the treatment of the matter on its merits could not fail to be more favorable to the second state under such conditions.

At the present time there are two subjects with respect to which the problem of regulation as analyzed above seems to be very acute. Extradition has passed over into the international jurisdiction rather completely. Even tariff rates are regulated by treaty agreement so extensively to-day that they do not present our problem in its most striking form.[1] It is in connection with the distribution of raw materials and the regulation of immigration that the expansion of international jurisdiction to-day invites our most alert attention.

In the matter of raw-materials distribution the present situation presents certain curious anomalies and difficulties. The important economic or geographic aspect of the situation is, of course, the fact that various raw materials, including fuels and foodstuffs, are scattered among the nations of the world in very uneven shares.[2] Great Britain lacks foodstuffs, the United States rubber, Germany cotton, and so on. The result is that various nations must depend for food, fuel, or raw materials for their industrial plants, upon supplies from the territories—metropolitan or colonial—of other nations. And up to very recent times the individual nations in which these supplies are to be found have had substantially complete power to regulate (permit, condition, tax, forbid) the ownership and the exploi-

[1] For examples of treaty regulation of tariff duties see United States Tariff Commission, *Handbook of Commercial Treaties*, 1923.

[2] See tables in Smith, J. R., *Industrial and Commercial Geography*, Part I.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ation of agricultural, timber or mineral properties there located and the export of their products, and have not hesitated to exercise that power. The result is that states dependent on other states or their colonies for certain materials are rendered insecure, apprehensive and resentful, even where no actual injury has yet been suffered in this direction.[1]

The curious thing is that not many attempts have been made, so far as can be discovered, to regulate this situation by treaty agreements of the type found so useful in the field of extradition. Commercial treaties of course have been concluded in large numbers in the past century, and in a good many of these agreements provisions have been inserted regulating the ownership of land and other property by aliens,[2] not to mention a few cases where export duties have been referred to.[3] Certain international agreements have been made granting concessions for the exploitation of natural resources,[4] providing for sharing in such concessions or financial arrangements,[5] or recognizing monopolistic spheres of influence in colonial territory.[6] But none of these forms of agreement applies to the point under discussion, except, perhaps, the agreement for sharing concessions. Bilateral agreements, not to mention general international conventions, for the regulation of the exploitation of natural resources and the international distribution of raw materials have been conspicuously rare or absent altogether.

Various reasons may be suggested for this. The practice of governments in leaving industry and commerce almost entirely in the hands of the private business man until very recently has probably been the chief cause at work. It does not appear that many demands have ever been made by one gov-

[1] See utterances of Belgian delegate at First Assembly of the League of Nations in 1920, in League of Nations, *Assembly Records,* I, p. 164.

[2] Treaty between United States and Salvador, 1870, in *Treaties between the United States and Other Powers,* II, p. 1551.

[3] Treaty between United States and Peru, 1887, *ibid.,* p. 1431.

[4] Agreement between Persia and Major Talbot (British) in *British and Foreign State Papers,* LXXXV, p. 608.

[5] Agreement on the Egyptian (Khedivial) debt, *ibid.,* LXV, p. 651.

[6] Agreement between Great Britain and France, *ibid.,* LXXXIII, p. 43.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ernment upon another for the conclusion of such agreements only to be subsequently rejected; in other words it does not appear that refusal to make such arrangements is the main cause of their dearth, as might be supposed, although it might well be true at the same time that such an obstacle has discouraged attempts in that direction and would also be encountered if the attempt to obtain such agreements were made to-day. The real fact of the matter is that this problem has dawned upon the nations suddenly, recently, and has found them lacking even the simplest measures of self-protection on this point in the form of international agreements of any kind.

The result is that the subject promises soon to receive international treatment of a much more extensive, general, and advanced type than could be expected in absence of preliminary treatment by the more elementary bilateral agreements. As early as 1900 the open-door principle was accepted by the nations in a vague, general, and tentative manner for application to exploitation of the resources of China;[1] that principle has since been accepted for application in many other parts of Asia and Africa, mainly at the instigation of the United States.[2] As early as 1909 the United States invited forty-five nations to attend a conference to provide for the conservation of natural resources the world over;[3] considerations of domestic politics checked what must have been a striking experiment in international regulation of raw-materials exploitation, distribution, and consumption.[4] Finally, the years 1919–1926 have seen numerous proposals for an international raw-materials conference, culminating in the plan for a general economic conference under the auspices of the League of Nations, to be held in 1927, at which raw-materials distribution is to be discussed;[5] it has been said that the United States would take the lead at

[1] Hay to Choate and others, March 20, 1900, United States, *Foreign Relations*, 1899, p. 142.

[2] Davis to Curzon, May 12, 1920, in Great Britain, *Parliamentary Papers*, 1921, Miscellaneous Paper No. 10 (Cmd. 1226).

[3] United States, *Foreign Relations*, 1909, p. 1.

[4] Scott, J. B., *Robert Bacon*, p. 130.

[5] League of Nations, *Monthly Summary*, VI, p. 94.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

this conference in advocating the break-up of world monopolies of certain raw materials.[1]

The place of these phenomena in our general theory of the expansion of international jurisdiction is not entirely simple to describe, but not altogether incomprehensible. Circumstances—circumstances of habitual economic practice and the tardy growth of economic thought, largely, rather than objective geographical and economic facts themselves—have led to the omission, so to speak, of the stage of bilateral treaty regulation in this matter. The acute economic situation of recent years has, on the other hand, led to sudden and intense advancement in the direction of a very mature form of international regulation. Raw-materials distribution seems to be following import tariff duties over into the field of international jurisdiction.

When we turn to international migration, both emigration and immigration, our earlier analysis seems to emerge in the facts more clearly and in greater detail.[2] From the point of view of existing international law there is no doubt that each state has the right to regulate the admission of aliens largely at its own discretion.[3] In doing so a state may not discriminate against nationals of one foreign state merely on the ground of nationality.[4] Race, religion, economic status, or what not else may be made the basis of distinctions in admission or exclusion, but not nationality in the political or legal sense. Thus in the Chinese Exclusion Act of 1882 it was the economic status of "Chinese laborers" which was made ground for exclusion, but not their nationality, other Chinese being admitted freely;[5] so

[1] Geneva press despatch, *New York Times*, February 14, 1926.

[2] For an extremely interesting exposition of the connection between the problem of raw-materials distribution and migration see League of Nations, International Labor Conference, Washington, 1919, *Proceedings*, p. 134.

[3] See the language of the Supreme Court of the United States in *Ekiu v. United States*, 1891, 142 U. S. 651.

[4] Even in the so-called "quota laws" of 1921 and 1924 in the United States (United States, *Statutes at Large*, XLII, p. 5, and XLIII, p. 153) the discriminatory quotas were all based on a single non-national standard, the number of aliens of whatever nationality present in the United States in 1890 or 1910.

[5] *Statutes at Large*, XXII, pp. 59-60.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

also the immigration act of 1917 excluded persons from a certain geographical area in Asia but made no mention of nationality.[1] Similarly, in the statute of 1924, which is regarded likewise as an anti-Japanese exclusion measure, eligibility to citizenship in the United States is made the immediate test of exclusion[2] and under the existing naturalization laws this carries us back to race, not to nationality;[3] accordingly non-Mongolian nationals of Japan are not liable to be excluded from the United States nor are Mongolian nationals of France admissible for purposes of immigration. Likewise, a state may not refuse under ordinary circumstances to admit travelers or traders from other nations, as China and Japan discovered seventy years ago, much less diplomatic and consular representatives, even on grounds of race or religion such as could be made grounds for exclusion of permanent immigrants. But it may regulate the entrance and activities of these persons in any reasonable degree, saving the essential rights involved in each case, and reasonably condition, tax or restrict their entrance and activities in accordance with its own best judgment. Attempts to set up an opposite doctrine based on concepts of natural individual human rights, the common title of humanity as a whole to the world as a whole—the freedom of the earth, it might be called—have failed.[4] Immigration still lies within the field of national legislation.

It may be felt that the preceding analysis provides an artificially sharp picture of the situation. Those contending for an individual natural right to enter would admit the right of the state of entry to restrict immigration in the interest of self-preservation; those who contend for the sovereignty of the state admit limitations upon the right of exclusion. Is not the result, the existing law, merely what it is at any given moment,

[1] *Statutes at Large,* XXXIX, p. 874.

[2] *Ibid.,* XLIII, p. 162.

[3] *Ibid.,* XVIII, p. 318.

[4] See citations and summary of views in Fauchille, P., "Rights of Emigration and Immigration," in *International Labor Review,* vol. IX, no. 3, March, 1924, p. 323.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a rather mixed thing, and is it not bound to be what it is under such circumstances no matter which principle is taken as the starting point?[1]

The situation is somewhat sharper than such a view would indicate. The right-of-immigration view would hardly permit exclusion except in face of serious danger. The right-of-exclusion view would scarcely admit limitations thereon except such as relate to the manner of its exercise, that is to say limitations in terms of the persons to be admitted. The burden of proof is placed on very different shoulders under the two points of view.

Finally, the fact of the matter is that the idea of natural individual rights has been banished rather completely from modern jurisprudence as a whole and is particularly out of place in modern international law. The state is the main subject of international law and its rights derive from international practice and consent, not from natural law. And under current international practice the right of exclusion by unilateral national action is clear.

The situation, however, has begun to change. It is our task in conclusion to trace the direction and extent of that change up to the present time and to conjecture the future course of events if that be possible.

There never has been any room for doubt that the migration of individuals from one country to another was a matter of vital interest to both nations. The country of origin has frequently regulated emigration in many ways indicative of its great interest in the matter. It has been said that the interest of the country of destination is greater because the migrant remains there, an asset or a liability as the case may be. But it is equally true that he remains away from his country of origin, a loss or gain as the case may be. There seems little to choose on this score; at all events both states are vitally interested, in degrees difficult or impossible to determine.

As a result and as an evidence of this we have the appearance of provisions dealing with the subject in many inter-

[1] See statement of this view in Fauchille, *op. cit.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

national treaties. If the state of emigration desires fully to protect its people at departure, on their emigrant journey and even after arrival in their new homes it must have recourse to treaty agreements with the carrier state and the state of entry. If the latter desires to regulate immigration to its shores most effectively it must secure agreements with the emigration state and the carrier state. The first such clause appeared in 1783 in a treaty between Sweden and the United States of America.[1] The first treaty pretending to deal with immigration on the point of admission, limiting the discretion of the admitting state, seems to have been concluded in 1817, when Great Britain and Portugal renounced their right to admit certain types of persons (slaves).[2] The first treaty to deny flatly the right of exclusion was the celebrated Burlingame Treaty signed on June 28, 1868, between China and the United States. In that treaty the parties admitted that the "right of man to change his home and allegiance" was an "inherent and inalienable right"; needless to add, that treaty is not now in force.[3]

These earlier international agreements on the subject of migration formed part of an expanding body of practice which has continued to develop until our own time.[4] The total number of such treaties now runs up into the hundreds. A tabulation of such agreements, omitting many which might well be included in any completely comprehensive survey, indicates that such agreements are distinctly and even rapidly increasing.[5] The parallelism between this situation and that which

[1] Treaty in *Treaties between the United States and Other Powers*, II, p. 1725. For much of what follows we are indebted to a collection of material published in 1922 by the International Labour Office, under the title *Emigration and Immigration, Legislation and Treaties.*

[2] Treaty in *British and Foreign State Papers*, IV, p. 85.

[3] Treaty in *United States Treaties*, I, p. 234. The parties also recognized the mutual advantages to one another "of the free migration of their citizens . . . from one country to the other for purposes of curiosity, of trade, or as permanent residents" (Art. V).

[4] Data in *Emigration and Immigration.*

[5] Table of international treaties dealing with the subject of international migration from 1780 to 1921:

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

existed in the field of extradition before that subject was completely assimilated into the international jurisdiction hardly needs to be emphasized further.

Much must be said, on the other hand, to assess the exact significance of these international agreements in themselves. It should be noted, in the first place, that most of these agreements deal with the subject of migration in connection with other activities such as slave trade, admission of alien merchants, commerce, or other matters.[1] It has been said that "there are few diplomatic agreements which do not exercise a certain influence" on some phase of the migration problem.[2] This fact should not, however, be taken to reduce the significance of these treaties as regulating migration activities. Rather should it be regarded as indicating the breadth of the migration question and the various points at which it is subjected to international regulation.

In the same manner it may be noted that the main impetus for the development of international migration regulation has come from the labor interests.[3] This does not mean that labor,

| | *Bilateral* | *Per Annum* | *Multilateral* | *Per Annum* |
|---|---|---|---|---|
| 1780-1789 | 1 | .1 | 0 | 0 |
| 1790-1799 | 0 | 0 | 0 | 0 |
| 1800-1809 | 0 | 0 | 0 | 0 |
| 1810-1819 | 3 | .3 | 4 | .4 |
| 1820-1829 | 3 | .3 | 1 | .1 |
| 1830-1839 | 2 | .2 | 0 | 0 |
| 1840-1849 | 2 | .2 | 1 | .1 |
| 1850-1859 | 0 | 0 | 0 | 0 |
| 1860-1869 | 9 | .9 | 0 | 0 |
| 1870-1879 | 14 | 1.4 | 0 | 0 |
| 1880-1889 | 24 | 2.4 | 1 | .1 |
| 1890-1899 | 15 | 1.5 | 1 | .1 |
| 1900-1909 | 37 | 3.7 | 6 | .6 |
| 1910-1919* | 22* | 2.2* | 5* | .5* |
| 1920-1921 | 12 | 6.0 | 6 | 3.0 |

* No treaties were concluded in the years 1915-1918; if the practice of the years 1910-1914 and 1919 had prevailed during the years 1915-1918 also data for the decade would appear thus:

| | | | | |
|---|---|---|---|---|
| 1910-1919 | 37 | 3.7 | 10 | 1.0 |

*Emigration and Immigration,* generally, especially p. 419.

[1] *Ibid.,* p. 360.

[2] *Ibid.,* p. 320.

[3] *Ibid.,* p. ix.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

rather than migration, is the interest at stake. It means that back of migration and of any proposal to deprive it of effective regulation, including the questions of admission and exclusion, lie labor interests ready to demand such regulation.

Third, it is to be noted that the great majority of the agreements on migration deal not with admission or exclusion but with treatment of the immigrant after entry.[1] Now it might be felt that this again reduces the significance of such agreements as regulations of international migration, seeing that admission or exclusion is, after all, the most vital point involved. But the opposite view might also be taken: regulation of the treatment of the immigrant after entry might seem to lie naturally within the national discretion of the receiving state even more than regulation of entry. The latter view is undoubtedly nearer the truth, as a matter of principle; what is still more pertinent is the fact that the question of admission has not, broadly speaking, been an acute question in most countries—as it is not today, for that matter—during the period when most of these treaties were concluded. It is only since 1900 that the migrant has been seriously restricted in his freedom of movement.[2] It is notable, moreover, that more treaties on this subject have been concluded since 1900 than were concluded in all the decades prior to that time.[3] The inference may be drawn that the specific question of admission or exclusion has come up for international treatment at last just when international treatment of the whole problem of migration promises to expand and become intensified to the point of seriously limiting if not eliminating entirely national discretion in the matter of immigration, admission or exclusion included.

Just the stage which has been reached in this whole process of development may now be briefly indicated. The practice of international regulation of migration has not developed to the point of absolutely depriving the individual state of its discretion in the matter of admission of aliens. The law as stated at the

[1] *Emigration and Immigration*, p. 366.

[2] *Ibid.*, p. xiii.

[3] See table, above, p. 559.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

beginning of the discussion of this question still stands. It may properly be emphasized again, however, that the primary end or consequence of setting in motion the process of treaty negotiation and international regulation in this matter is not so much to create any legal obligation to abstain from unilateral national action. The most important result is to establish in terms of actual fact a form of practice which will be followed habitually and as a matter of course. It may even be suggested that this development is likely, for an indefinite time, to be pushed forward without any express denial of the right of national regulation ever being made, or, indeed, with every care taken to avoid raising this point of abstract legal theory. Such a deliberate evasion of the theoretical legalistic issues involved has frequently served well in the past to retain the treatment of a problem of political and social action on the plane of reality and practical utility and avoid barren legalistic difficulties.

Much has been done, in fact, to set up the machinery and procedure of international regulation of migration in the past twenty-five years. There are first to be noted all the varied activities undertaken prior to or apart from the League of Nations. In this case may be listed the ever-multiplying bilateral treaties already reviewed. To these should be added some twenty-five multilateral treaties, dealing with various phases of this problem, seventeen of which date from 1900 or later.[1] More interesting still, at least to Americans, as an indication of the possibilities of this sort of thing, is the action of the United States Congress in 1907 in authorizing the President to call an international conference on immigration (!);[2] a favorable response was obtained from other nations in this project also and it, like the raw-materials conference, was abandoned only because of domestic political reasons. The suggestion and authorization were repeated, moreover, in the immigration act of 1917, and remain to be acted upon at any time.[3] Meanwhile, in 1924, the Italian Government projected and

[1] *Emigration and Immigration*, p. 398.

[2] *Statutes at Large*, XXXIV, p. 898.

[3] *Ibid.*, XXXIX, p. 874.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

actually convened an International Emigration and Immigration Conference in Rome at which fifty-nine countries, including the United States, were represented, most of them countries of emigration.[1] It is now proposed to hold in this hemisphere a conference of immigrant receiving states and to follow this with a still more general international migration conference of all nations.[2]

Next are to be noted the activities of the International Labor Organization and the League of Nations. The first General Conference of the Labor Organization, meeting in Washington in 1919, invited the Governing Board of the Labor Organization to establish an International Emigration Commission "which, while giving due regard to the sovereign rights of each State," should "consider what measures could be adopted to regulate the migration of workers" and kindred matters.[3] Nine European and nine non-European nations were represented on this Commission, seven of which were clearly countries of emigration and seven countries of immigration.[4] The Commission met from the 2d to the 11th of August, 1921, in Geneva. Some seventeen objectionable features in current migration activities were indicated and suitable remedies proposed. It was also proposed by Brazil that a permanent international commission should be established to direct migration and compose conflicts between nations arising in connection with international migration.[5] Such a proposal seemed to other nations to be inadvisable at the time, in view of a rather widespread disposition shown in 1921 to question the competence of the International Labor Organization—"as . . . on . . . the question of the distribution of raw material".[6] It was therefore not

[1] Accounts of the conference are to be found in: International Labor Office, *Industrial and Labor Information,* X, pp. 242, 290, 423, and XI, p. 54.

[2] United States, Congress, House of Representatives, Committee on Immigration and Naturalization, *Hearings,* 68th Congress, 1st Session, p. 1433.

[3] For this whole episode see *International Emigration Commission, Report of the Commission,* published by the International Labor Office, 1921.

[4] *Ibid.,* p. 11.

[5] *Ibid.,* p. 56.

[6] *Ibid.,* p. 57.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

acted upon, but the advisability of creating such a commission was commended to the consideration of the Labor Organization. Since that time such activity as has been maintained in this direction by the League or the Labor Organization has been maintained by the Migration Section of the Labor Office.[1] This activity has consisted in the collection and distribution of information and in making suggestions to nations interested in the migration problem.[2]

Perhaps the most significant fact to be noted in connection with these activities is the fact that the powers taking part therein agreed repeatedly that international treaty agreement constituted the most desirable if not the only really effective method of dealing with many phases of the migration problem.[3] The subject of migration again appears among the problems to be studied and, presumably, acted upon at the forthcoming International Economic Conference to be held by the League of Nations;[4] perhaps the tentative efforts made at Geneva and Rome in 1921 and 1924 may be followed after another triennium by some definite international action on this delicate matter.

Finally, there may be added the establishment and operation of the International Migration Service.[5] This institution con-

[1] Originally named the "Emigration Section" of the Labor Office. For its origin, organization, and activity see: International Labor Office, *Official Bulletin*, I *et seq.*

[2] It may be of some significance that this Section has later been transferred from the Research Division to the Diplomatic Division of the Labor Office.

It should be added that when, in 1921, the Labor Office questioned the Members of the International Labor Organization concerning the advisability of intrusting the Labor Office with the adjustment of difficulties arising among the nations concerning migration, coordinating in agreement with the governments concerned the measures taken by them to regulate migration, supervising the execution of any international arrangements which might be voluntarily set up by the nations, and other similar tasks the replies received were uniformly favorable. *International Emigration Commission*, pp. 85, 158-162.

[3] See documents quoted in Saavedra Lamas, *op. cit.*, pp. 120-136.

[4] League of Nations, *Monthly Bulletin*, VI, p. 97.

[5] For origin, organization and activities of this institution see *International Migration Service, A Venture in Practical Idealism*, published by the Service itself at its New York Office.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sists of a central international office at Geneva and a dozen or more branch offices in various countries in Europe and North America. It is supported by funds contributed by private philanthropists in the interested nations. Various governments have, however, given it endorsement and material aid from time to time. Its activities include the collection of information and its distribution to individuals contemplating emigration to foreign lands, assisting migrants at ports of departure, on the journey, or upon arrival in the country of destination, and the investigation and study of migration problems, followed by publication of data and conclusions reached. It maintains cordial relations with the Secretariat of the League and the International Labor Organization, and in every way resembles those private or semi-official international administrative bureaus which have so frequently been converted into official bureaus at a later stage.

Thus, in spite of the fact that the dogma of a national right of regulation is still maintained, the world has gone far toward international migration regulation. Such action seems to impend at no very remote date if the developments of the past quarter of a century are of any significance. Here, as in the case of raw-materials distribution, it appears that an advanced type of international regulation impends before the process of international regulation by bilateral treaty agreement has developed as far as might have been thought requisite to prepare the way for final general international action. The cause is probably the same as that suggested in the discussion of raw-materials regulation. The nations neglected these topics long after they called for international regulation; as a result the speeding up and intensification of the international social process brought on by the war now compels them to take more comprehensive and more radical measures than would have been anticipated so soon in the atmosphere of pre-war neglect.[1]

It would be somewhat unrealistic, of course, to pass unnoticed the national political factors involved here. The Latin-American and Continental European nations stand more or less solidly in support of international regulation of migration and the

[1] See views of Saavedra Lamas, *op. cit.*, pp. 178-184.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Latin-American nations even admit a natural right of immigration.[1] This attitude is taken by these countries either because they desire to send emigrants abroad or to receive immigrants in their own territories, as the case may be, or because of fundamental ideas which they hold concerning natural rights of the individual human being, coupled with the absence of any aversion to racial intermixture. The leading Asiatic nations are to-day taking the same position even more strongly, and the opposition is thus reduced to Great Britain and the United States, or, to be exact, to the United States and certain British Dominions—Canada, Australia and New Zealand[2]—for Great Britain herself tends to adhere to the other view.[3] It is in part a case of East against West, in part one of old countries against new, or of yellow and brown against white, or of Latin and Mongolian and Hindoo against Anglo-Saxon.

The situation is, indeed, unique. It is, it might seem, full of danger. Yet it may be that the facts of the situation and the natural evolution of international regulation will work out a realistic adjustment without such a clash as would seem to be imminent. The position of Japan and Italy must appear to present the depth of cupidity and degeneracy if the attitude the United States on the questions of sharing our prosperity debasing our racial stock by the admission and assimilation thousands of poverty-stricken Latins and Mongols is sound. the attitude of Japan and Italy, of France and Great Britain herself—four of the five or six leading nations of the world—on such matters is sound, on the other hand, then the American-Dominion attitude must be hopelessly unrealistic, affected and hypocritical, an unspeakable anti-social blend of Puritanical Nordicism and economic monopoly. If either of these positions is as extreme as each may appear to its opponents, it is likely to collapse of its own hollowness, leaving the natural development of international migration regulation to take its course along more moderate lines.

[1] See Fauchille, *op. cit.*, p. 328, and Saavedra Lamas, pp. 117, 143.

[2] *Ibid.*, p. 144; on the United States *cf. supra*, p. 558, note 3.

[3] Saavedra Lamas, *op. cit.*, pp. 141, 182, 185.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

At all events enough has been said to illustrate amply the manner in which the field of international jurisdiction is expanded at the expense of the field of national regulation. First comes national discretion in the absence of restrictions on the primitive plenary national power. We pass secondly to the state of facts where international interest arises. Diplomatic activity ensues, leaving national legal discretion intact but inducing a give and take in the exercise of that discretion. The result is an expanding flood of voluntary bilateral international agreements until unilateral regulation ceases to be permissible. The third stage is marked by the general international exchange of information and general international agreements in terms of abstract law and principle. Finally, come international administrative bureaus to execute and—if the process be pressed to its logical conclusion—to enforce such law. It is the generic process of substituting international government for the anarchy of unrestrained national liberty.[1]

PITMAN B. POTTER

UNIVERSITY OF WISCONSIN

[1] For an extremely interesting recent discussion of this problem in terms of the scope of the jurisdiction of the League of Nations see debate in Assembly of the League on September 20, 1926, as reported at the time *New York Times,* September 21, 1926, p. 12.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# THE EPISCOPAL CHURCH AND NATIONAL RECONCILIATION, 1865

ADDRESSING his diocesan convention on September 14, 1865, Bishop Thomas Atkinson, of the Protestant Episcopal church in North Carolina, declared:[1]

> The authority of the government of the United States is re-established over the South, and there is an universal disclaimer of any intention or desire to attempt to unsettle it. But it is very far from being certain what the nature of the Union is to be which has been cemented again with so much blood. Is it to be one of constraint, or one of affection? Is the South to be added to the melancholy list of oppressed nationalities—to become an American Poland or Hungary, to live by the side of the North in a state of chronic turbulence, suspicious and suspected, hating and hated?

That this outcome, so staggering a possibility in the bishop's day, has been averted, is due, as students of American history have long recognized, to the presence throughout the nation of those agencies which sought to offset "Radicalism" and to re-establish fraternal feeling between the hostile sections. Yet, for the most part, the efforts of investigators have been devoted to the divisive factors in the situation. The present study is a discussion of the record of the Episcopal church as a reconciling force, particularly in the year 1865.

Churches, like other social agencies, show the influence of geographical and class sectionalism. The familiar evidence of this is the rending of certain sects into "North" and "South" bodies some fifteen years before Secession. But that is by no means the most important fact in this connection. Within the larger organizations, such as the Methodist and the Presbyterian, there were ecclesiastical "border" districts corresponding to the political sections so known, and the Radical sentiment which kept the controversial pot boiling through the

[1] *Journal*, p. 18.



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

whole critical period was expressed in varying degrees of extremeness in the Methodist conferences of New England and its western extensions as truly as in those characteristically New England denominations, the Congregationalists and the Unitarians.[1]

Episcopalianism gave the least evidence of this divisive tendency, and that fact bears a relation to its unique record. It is familiar history that this was the only Protestant denomination having a national distribution which maintained complete accord within its own jurisdiction up to the outbreak of the war. There were, indeed, personal differences on the questions before the country, but the central and diocesan conventions took no cognizance of these controversies.[2] The Episcopalians insisted that the canons of their church forbade the introduction of political topics into their ecclesiastical assemblies.[3] On the other hand, though the Methodists and the Presbyterians had similar rules, these bodies were disturbed by the agitation of those who held that slavery and rebellion were primarily moral evils and therefore required action by the religious forces of the nation.

No proof is needed here for the fact that this difference of policy has its roots in other than ecclesiastical ground, but a summary will help in understanding subsequent developments. The expressions of political sentiment made by the local church groups conform so closely to those of geographical sections of which they were parts that they are naturally explained as

[1] See Notes I and II at the end of this article. *Cf.* Norwood, John Nelson, *The Schism in the Methodist Episcopal Church, 1844* (1923), chap. vi.

[2] *Episcopal Recorder* (a Philadelphia weekly), vol. 38, no. 37 (Dec. 8, 1860), p. 146, editorial, "Prayer for the Union"; *American Quarterly Church Review*, (published at New Haven, later at New York), vol. XIV, no. 1 (Apr., 1861), p. 163, and vol. XV, no. 1 (Apr., 1863), pp. 105 *et seq.* *Cf.* Walker, Williston, *A History of the Christian Church* (1922), pp. 583 *et seq.*

[3] Though the triennial sessions of the General Convention were held at Richmond, Va., in Oct., 1859, during the John Brown excitement, there was no mention of that situation or its cause. A memorial to the United States Government on the rights of Protestants in Spain was rejected lest it be an entering wedge for other issues with political complications. See *Journal*, pp. 84, 95.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

rowing out of social and economic environment; and while he Episcopal denomination, not having suffered dissection, ppears to present an exceptional case, as a matter of fact, it oes not. The distribution of its members among the states nd their class character supported their canonical principles.

With regard to the socially and politically conservative character of the constituency of this denomination, there is general greement, and indeed the Episcopal writers of the period nder consideration boast of the fact.[1] Not that the church eclared itself indifferent to the masses of mankind, but it acked the organization to bring it into contact with them and ts ritual did not have a wide appeal. These limitations the eaders frankly accepted as inherent in their ecclesiastical system.[2] The conservatism of the Episcopal church was further mphasized by the geographical location of its membership. ts equal division between slave and free territory[3] is not of irst importance; for a similar balance of power within other enominations did not prevent schisms in those cases. The ignificant point is that up to 1860 the Northern Episcopal trength was in the older portion of the country, especially in he Middle Atlantic states, though with a considerable extenion into Southern New England. The church had not fully vercome the prejudice which attached to it during colonial nd Revolutionary times,[4] yet it seems not to have suffered on at account with the federal authorities in the appointment f chaplains.[5] West of the Alleghenies its constituency was

[1] *Church Review,* vol. XIV, no. 1 (Apr., 1861), pp. 153 *et seq,* and vol. XV, o. 4 (Jan., 1864), p. 575; *Episcopal Recorder,* vol. 38, no. 33 (Nov. 10, 1860), . 130, editorial.

[2] *Church Review,* vol. XV, no. 3 (Oct., 1863), pp. 457, 461 *et seq.*

[3] *Episcopal Recorder,* vol. 38, no. 37 (Dec. 8, 1860), p. 146, editorial.

[4] *Journal,* Va. Conv., 1862, p. 35. (This form is used to refer to a diocesan onvention of the Protestant Episcopal church in the state and for the year amed. In the Confederate church, the term 'council' was used instead of onvention, but no variation is made in the references of this article.) *Cf.* Valker, *op. cit.,* p. 574.

[5] Criticism of the government for the disproportionate number of Episcoalians in chaplaincies occurs in the *Minutes* of the General Conference of the Methodist Episcopal church, 1868, pp. 189, 336, 631.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

located principally in the border sections, and throughout th nation, for the most part, was concentrated in urban communi ties. Anti-Puritan tradition, also, brought the Episcopalian into conflict with abolitionism, which they identified with non conformity. This feeling was strengthened by the prominenc of the theological radicals in the movement.[1]

Anti-slavery sentiment did appear in the communion, but i was found among Low-Churchmen. That this group did no force the issue in the pre-war conventions is due, according t a writer of the opposition,[2] to the ecclesiastical situation. They were divided among the dioceses of the North and Soutl and needed all their forces united in the struggle for denomi national control. Significant facts support this theory. Bis hops William Meade, of Virginia, and Thomas Frederick Davis, of South Carolina, for instance, belonged to the Lo Church party,[4] as did Bishop Charles Pettit McIlvaine, of Ohio mentioned later, and the Reverend Stephen H. Tyng, D. D., o New York City, who was also a violent abolitionist.[5] The *Episcopal Recorder*, a weekly paper which boasted of its sup port of the evangelical cause,[6] took a conservative position u to the beginning of hostilities. It decried politics in religiou assemblies,[7] praised the theological school (together with it

[1] Bishop John Henry Hopkins, *Bible View of Slavery* (at first in pamphl form, later, 1864 in a book); *Church Review*, vol. XV, no. 4 (Jan., 186 article, "The Union, the Constitution, and Slavery," especially pp. 542-54 *Episcopal Recorder*, vol. 38, no. 43 (Jan. 19, 1861), p. 170, editorial, "Pur tans," etc., a variation of the argument. *Cf. Methodist Quarterly Review* vol. XLVI, no. 2 (Apr., 1864), p. 312, which gives a Puritan view of th traditional conflict by describing the war as between the descendants o Lexington and the descendants of those "who ran away at Guilford Cour House and stood but feebly at Camden and Savannah."

[2] Hopkins, Rev. John Henry, *Life of Bishop Hopkins* (father), p. 344. Thi is copied in Sweet, Rev. Chas. F., *A Champion of the Cross* (a biography o the younger Hopkins), p. 105.

[3] Walker, *op. cit.*, p. 584—a mention of the controversy.

[4] Sweet, *op. cit.*, p. 105.

[5] *Church Review*, vol. XIII, no. 3 (Oct., 1860), pp. 401 *et seq*, and vol. XI no. 2, (July, 1861), p. 389.

[6] Apr. 2, 1859 (vol. 37, no. 1), p. 2, editorial.

[7] Nov. 10, 1860 (vol. 38, no. 33), p. 130, editorial.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Diocesan) in the Old Dominion as "one of the chief union sanctions in our confederacy,"[1] argued against secession but for peace in any event,[2] and advocated, in case of political separation, an amendment to the church constitution which would permit the Southern dioceses to remain in union with the Northern.[3] But in May (6th), 1865, when restraint seemed no longer necessary, the editor advised hanging ex-Confederate bishops along with other chief rebels.[4]

However one may explain it, the fact that the Episcopalians maintained such complete accord before the war had great bearing on the relations of the two sections of their church both during and after the close of military operations.

During the war, the separation of the Southern dioceses into the "Protestant Episcopal Church of the Confederate States of America" was merely incidental to the political situation.[5] The leaders in that organization were careful to disclaim any schismatic motives, and to base their action on what they declared to be apostolic and well recognized usage, namely limiting ecclesiastical jurisdictions to national boundaries, while maintaining the catholicity of truth and fellowship. Many, notably Bishop Meade, had opposed secession up to the last,[6] but when the new government was actually in operation, they insisted that it was their duty, in accordance with the Biblical injunction and the canon law, to submit to those who had the rule over them.

[1] Nov. 24, 1860 (vol. 38, no. 35), p. 138, editorial.

[2] Dec. 8, 1860 (vol. 38, no. 37), p. 146, editorial; Dec. 22, 1860 (vol. 38, no. 39), p. 154, editorial; Feb. 2, 1861 (vol. 38, no. 45), p. 178, editorial; Mar. 6, 1861 (vol. 38, no. 51), p. 202, editorial.

[3] Dec. 29, 1860 (vol. 38, no. 40), p. 158, editorial.

[4] Rev. J. H. Hopkins, *op. cit.*, p. 345.

[5] See the "Resolutions" calling for the new organization, passed at a meeting of delegates in Montgomery, Ala., in July, 1861, and printed in *Journal* (p. v) of the General Council of the P. E. church in the Confederate States, which was held in Columbia, S. C., Oct. 16-24, 1861. *Cf. Journal* of the General Council of Nov., 1862, p. 100, and the "Resolutions" of the Council of Nov., 1865, printed in *Journal*, S. C. Conv., 1866.

[6] *Journal*, Va. Conv., 1862, pp. 38 *et seq.* Bishop Nicholas Hamner Cobbs, of Alabama, is referred to in *Journal*, Ohio Conv., 1861, p. 19, and Bishop James Hervey Otey, of Tennessee, in *Journal*, Tenn. Conv., 1866, pp. 37 *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Of particular significance is the fact that, in their deliber tions, the Southern churchmen sought to preserve harmon with the parent body. For this reason, the preliminary counc voted to postpone the consecration of a new bishop for Al bama, despite the urgency of the situation, lest irregularitie endanger "the bond of peace."[1] Even in the midst of the wa it was declared in a committee report to the General Counc that "though now found within different political boundaries the church remains essentially one," as the British and Amer can communions had always been.[2] Moreover, they felt sur that they had the sympathy of many of the Northern diocese who opposed coercion by the Government;[3] and when tha effort should fail and peace be established between the tw nations, the Episcopal organizations therein would affiliate o the basis of common apostolic and catholic origin and faith Said the Virginia bishop, "Let us treat our enemies as thos who may one day be our friends."[4]

A like spirit, for the most part, moved the Episcopalians c the North. With few exceptions, the diocesan conventions c the war period made only moderate reference to the politica issues.[5] Moreover, in the General Convention of 1862, th separation of the Southern dioceses was not recognized offici ally, their seats being left vacant and their names being read o every roll call. But the demand for political action was i sistent. All the other Protestant bodies had vehemently de nounced the rebellion and pledged unreserved support to th federal government. Were Episcopalians alone disloyal? I silent, would they be able to survive the suspicion of secession?

[1] *Journal,* Oct., 1861, pp. 40 *et seq.*

[2] *Journal,* 1862, p. 100.

[3] *Journal,* Va. Conv., 1862, pp. 38 *et seq.*

[4] *Journal,* Va. Conv., May, 1861, p. 27.

[5] At this time, geographical sectionalism appears. For example, the borde dioceses, Delaware, Maryland, Missouri and Texas, show serious division o sentiment; while in Kansas, Massachusetts, Ohio and Pennsylvania stron feeling against the "rebellion" was displayed. See the journals of the variou conventions from 1861 to 1865.

[6] Rev. J. H. Hopkins, *op. cit.,* p. 340. *Cf. Journal,* Pa. Conv., 1864, pp 66 *et seq.,* for the same argument in a diocese.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Aiding this threat from without were certain influences ithin this General Convention, according to an interested con- mporary.[1] The Ohio diocesan had been on a semi-diplomatic ission to Europe and had come to the church sessions from a onference in the State Department at Washington. He sub- nitted a draft of a "Pastoral Letter," such as was usually sent rom the House of Bishops to all the parishes. This document, hough restrained in tone, condemned the rebellion and de- lared the loyalty of the denomination to the Government. Discussion of these points betrayed considerable heat, but they ere finally retained, notwithstanding the vigorous opposition nd formal "Protest" of Bishop Hopkins, the acting presiding fficer. This disposition of the matter probably accounts for he failure of this branch of the assembly to act on the resolu- ions with similar sentiments sent up from the House of Cleri- al and Lay Deputies, where after a long parliamentary struggle hey had been carried through at the urgence of Horatio Sey- nour, Democratic candidate for Governor of New York. As he state party leaders, despite their pro-war pledges, were ac- used of insincerity, it no doubt seemed of great importance to is particular churchman that his ecclesiastical confreres should clare themselves.

Notwithstanding this single deviation from the long-followed icy of silence on political issues, the practically unanimous esire in the General Convention with respect to the absent ioceses—expressed indeed as a part of the action of the depu- ies—was "to shut no door of reconciliation which is still open, nd to afford the best hope that they may be induced to recon- ider and retrace their steps, and to renew their relations in Christian love and loyalty, to a common Church and a common ountry."[2] An effort to have a committee investigate the pos- ibility of guilt on the part of the Southern clergy was squarely lefeated.[3]

[1] Rev. J. H. Hopkins, *op. cit.*, pp. 325 *et seq.* *Cf. Journal*, General Convention, 1862 (at New York City)—for the action of the bishops, pp. 140, 44 *et seq.*, 152-161; of the deputies, pp. 31-33, 37-40, 51-54, 84-94.

[2] *Journal*, p. 52. See, also, pp. 76, 86 *et seq.*, 89, 92, 161 *et seq.*

[3] *Ibid.*, pp. 94, 103.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

At the close of the war, therefore, the Episcopalians in th two sections of the nation faced each other in a very differen atmosphere from that which enveloped practically all the othe Protestant denominations. This contrast is so strikingly signifi cant in its political as well as ecclesiastical aspects that it wil justify a seeming digression to emphasize it.

Division, in some cases, had but intensified the bitternes even before the beginning of military operations,[1] and durin the four years of the fighting, crimination and recriminatio were unrestrained. This attitude, no doubt, led the Northern denominations into what proved to be the false assumption tha the collapse of the Confederacy meant the end also of th ecclesiastical organizations in those states.[2] As the federa troops recovered territory, the "missionaries" moved in a once, in many instances taking possession of vacant churc properties[3] and generally declaring the anticipated dissolutio to be fixed fact. Southern church leaders, however, very soo began to call their constituencies together again.[4] Politica separation was a lost cause and they were prepared to submit but religious interests were not under government control an at the moment seemed the one field left in which they coul nurse their desire for independence. Inspired, therefore, w a fierce resentment, born of long-standing animosity and agg vated by unfair dealing, the denominations of the South fou the ecclesiastical invaders. To this fact a committee of th

[1] *Methodist Quarterly Review,* vol. 60, no. 2 (Apr., 1878), pp. 219 *et seq.*; *Church Review,* vol. XV, no. 1 (Apr., 1863), pp. 105 *et seq.*; Norwood, *op. cit.*, chap. vi; and Note I at the end of this article.

[2] *Minutes,* National Council of Congregational Churches, June, 1865, pp. 140 *et seq.*; *Minutes,* General Conference of the M. E. church, May, 1864, pp. 278 *et seq.*, 225, 241; *Minutes,* General Assembly of the Presbyterian Church in U. S. A., May, 1865, at Brooklyn (New School), pp. 21, 24.

[3] *Minutes,* New England (Eastern Massachusetts only) Conference of the M. E. church, Apr., 1865, p. 3; *Minutes,* American Baptist Home Mission Society, 1864, pp. 15, 31. In the latter case, it was declared that their purpose was to hold the property for its rightful owners.

[4] *American Church History Series,* vol. XI, p. 77, gives the following unidentified quotation: "'Neither disintegration nor absorption was for a moment to be thought of, all rumors to the contrary notwithstanding.'"

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

General Conference of Northern Methodism bore witness when it declared concerning the struggle in the Holston district:[1] 'Prejudice and sectional proscription are formidable weapons in the hands of men rendered earnest and desperate by defeat and disaster." But the saying would have applied as well to the accusers, who were no less afflicted with sectional prejudice and exasperated at seeing what they regarded as a carcass suddenly spring up in self-defense.

Within the Northern denominations, moreover, conflicts arose over the attitude to be taken toward those who had been in the rebellion when they should apply for admission or restoration to membership. In the border districts, the sentiment was strongly for moderation, or even free forgiveness. But they were outvoted and condemned for their sympathy with the sinners, and further divisions resulted.[2]

Not only did Protestantism in the North for the most part exemplify thus the Radical and carpetbagger spirit in the conduct of ecclesiastical affairs, but during the period of the conflict within the federal administration it also unreservedly approved the policy of Congress against President Johnson.[3] How far this attitude of the churches counted in securing for the extremists the support which at first they lacked, it is not possible to determine with exactness; but in view of the claims of these organizations[4]—and they certainly included many voters

[1] See Note II at the end of this article.

[2] *Minutes,* General Conference of the M. E. church, 1868, pp. 151 *et seq.,* 158; *Minutes* of each of the following annual conferences of the M. E. church—New Jersey, 1866, pp. 26 *et seq.;* Southern Illinois, 1866, p. 45; Rock River (Ill.), 1866, p. 27; *Minutes,* General Assembly of the Presbyterian church at Brooklyn, May, 1865 (New School), p. 19 (on p. 38 is an expression of confidence in President Johnson, based possibly on his early public declarations); *Minutes,* National Council of Congregational Churches, June, 1865, pp. 89, 241-245, 251, 255; *Minutes,* American Baptist Home Mission Society, May, 1865, p. 44 (see Note III at the end of this article).

[3] *Minutes,* 1868, p. 562. *Cf. Minutes* of each of the following annual conferences of the M. E. church—North Carolina, 1875, p. 15 (historical sketch); Virginia, 1869, pp. 14 *et seq.;* and Philadelphia, 1867, p. 42. For a moderate Northern view, see *Methodist Quarterly Review,* vol. 47, no. 4 (Oct., 1865), p. 629, editorial.

[4] *Minutes,* National Council of Congregational Churches, 1865, p. 184.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

—and of the fact that Lincoln, during the war, had sought thei expressions of approbation,[1] one can at least assume that these denominations played their part in what has sometimes been called "the crime of reconstruction."

In this record of events, moreover, lies the explanation of the fact that the ecclesiastical divisions still survive, although the spirit which troubled the political waters has long since given place to the healing calm of sympathetic understanding and reciprocal service. When, in 1870, the reunited Northern Presbyterians belatedly declared that they desired "the speedy establishment of cordial fraternal relations with the body known as the 'Southern Presbyterian Church,' on terms of mutual confidence, respect, Christian honor and love," the latter recalled the earlier charges of "heresy and blasphemy" made against them by their former denominational confreres. If they were guilty, they said, they were unworthy of the proffered "confidence," and if not guilty, "Christian manliness and truth required them [the accusations] to be openly and squarely withdrawn." But while the churches require a confession of sin from the individual, apparently they themselves admit nothing, for the matter was dropped with sanctimonious resolutions.[2] Similarly, the recent failure of the effort to establish even a form of reunion among the Methodists of the two sections was brought about in the South by the older leaders who could not forget the venomous contumely heaped upon them, for their loyalty to their honest convictions.

On the other hand, restoration of complete accord within the Episcopal church began at once with the surrender of the Confederate armies, though not without meeting difficulties. By a fortunate turn of circumstances, the Presiding Bishop[3] was Hopkins, of Vermont. In his private capacity, he had for years defended slavery as a divine institution approved by the Bible and by the Christian church from its beginning, but at

[1] *Minutes*, General Conference, M. E. church, 1864, p. 147.

[2] *Minutes*, General Assembly, Northern body, pp. 18, 56-58.

[3] Determined by seniority in the episcopate.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the same time he had argued for emancipation on economic and social grounds. During the early stages of secession, also, he had questioned whether the federal government had the constitutional authority to prevent such withdrawal from the Union and had advocated submission of the issue to the Supreme Court. Yet his letters to his fellow clericals of the disaffected states, beseeching them to work for delay, were as ineffective in the end as all such efforts. Later, during the Pennsylvania gubernatorial campaign of 1863, the republication of his pamphlet, *Bible View of Slavery*, and its distribution by the Democrats brought upon him a storm of criticism even by his co-religionists of that state.

Whatever the merits of this controversy,[1] the bishop's well-known sympathy with the Southern point of view had preserved for him a kindly feeling among the people of that section, and this had been enhanced by his vigorous effort "to prevent the needless increase of alienation by acts of injudicious loyalty at the North," especially in the General Convention of 1862. While anticipating victory for the federal government, he looked also to the time of reconciliation, realizing that friendship alone could restore the harmony in social relations which was indispensable to true national unity.[2]

This apostle of conservatism, at the death of Bishop Thomas Church Brownell, of Connecticut, in January, 1865, succeeded to the highest office in the Protestant Episcopal Church in the United States. The significance of this can be more fully realized by reflecting on the change in the atmosphere that would have been produced, had the position fallen to the Ohio diocesan, or to one of the group represented by the editor of the *Episcopal Recorder*.

Southern Episcopalians indicated their attitude toward Hopkins even before the final collapse of the Confederacy by the

[1] For the bishop's side, see his book, *op. cit.*, and Rev. J. H. Hopkins, *op. cit.* Pamphlets of the opposition are bound in a volume under the title, *Church Controversies* (2), in the Episcopal Theological School Library, Cambridge, Mass. Among the authors are Charles May, M. A. de Wolfe Howe, "Biblicus," and the "Editor of the *Episcopal Recorder*."

[2] Rev. J. H. Hopkins, *op. cit.*, p. 344.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

action of churches in two dioceses which were without bishops. In January, 1865, a call came from New Orleans, and in February one from Memphis, asking him to visit them in order that they might have the ministry of episcopal functions. Despite his great desire to accede to their requests for the good effect upon the denominational and political feeling, he finally declined because in the disrupted condition of the ecclesiastical organization in those states no canonically proper invitation could be secured. Full recognition of the authority of the dioceses of the South with the consequent jurisdictional limitations was held to be of greater importance for reconciliation than any temporary and localized ministrations.[1]

Other circumstances than the personality of the Presiding Bishop aided the process of restoration of harmony within this church. The triennial meeting of the General Convention of 1865 was to occur in October, one month before that of the General Council of the Confederate States body. This gave the parent organization opportunity to express at an effective moment its desire for the return of the absent children, as the record of events will show.

Renewal of personal relations between clergy of the two sections began as soon as means of communication had been reestablished and by the following October had gone a long way toward healing the soreness left by conflict and defeat. The younger Hopkins relates,[2] that the Bishop, following his tactful declination of the invitations of the Southern parishes, decided to delay any direct appeal to the disaffected dioceses until the heat of war had had time to cool somewhat, lest a premature advance of an official nature might receive a repulse which would make reunion even more difficult. But in the early summer he prepared a draft of a letter to be sent to the absentees from the convention, and he submitted this to his fellow diocesans in the North for their consideration. There were few favorable replies, the opposition being based on various grounds. Some would not receive the rebels without a show

[1] Hopkins, *op. cit.*, p. 345.

[2] *Ibid.*, pp. 347 *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of repentance and a period of probation. Others thought the first step should be taken by those who had withdrawn, while still others held that action must originate in the national assembly. Although defeated thus in his plan to address an official communication from the House of Bishops, Hopkins, nevertheless, as presiding officer, dispatched an invitation declaring that he was "authorized" to say that his colleagues "generally sympathized with him" in his desire for the return of the Southern dioceses to the approaching sections of the General Convention.[1]

Another of the Episcopal leaders to make advances toward reconciliation was Bishop Horatio Potter, of New York (eastern portion). His letter of Christian fellowship is referred to, along with others, by the diocesan of Virginia and is interpreted as "delicately alluding to devastation" and offering aid.[2] In praising the generosity of the Northern churches, Bishop William Mercer Green, of Mississippi, said: "The sympathy which they felt for us during the war, but durst not express, has vented itself in material relief to our clergy."[3] Similar sentiments were uttered by Bishop Alexander Gregg, of Texas, who on January 1, 1866, accepted invitations to visit certain parishes in the North and make personal appeals for aid in educational enterprises. While his material success is described as partial, the cordiality with which he was received, he said, could not be forgotten.[4] Besides the proffers of aid by individuals and churches, the missionary society connected with the General Convention offered funds to the impoverished dioceses.

These personal and official advances of the Northern Episcopalians had immediate favorable results, a summary of which is given in the annual report of the Virginia bishop in September, 1865. The diocese of Texas voted at once (June) to re-

[1] *Journal,* Va. Conv., 1865, p. 29.

*Ibid.,* p. 26. At this point it should be noted that in March, 1862, Bishop Meade died and the Assistant Bishop, John Johns, automatically became the chief officer in the diocese.

[3] *Journal,* Miss. Conv., 1866, p. 70.

[4] *Journal,* Tex. Conv., 1866, pp. 13 *et seq.,* 21.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

unite with the parent body.[1] Bishop Atkinson and Bishop Henry Champlin Lay, of Arkansas,[2] addressed a joint letter to Bishop Stephen Elliott, of Georgia, presiding officer of the Southern organization, advocating resumption of full relations. To this the senior diocesan replied, as he had to the Hopkins invitation, that they could not "avoid" it. In August, he was empowered by his convention to take steps toward reunion at his discretion, and provisional delegates were appointed.[3] In September, the North Carolina diocese took identical action.[4] Concluding his statement, the Virginia leader declared that the majority sentiment was for the return to the former affiliation, and he advocated such a vote.[5]

His convention, however, while approving the bishop's "Christian and conciliatory course" and resolving that "this council appreciates and affectionately responds" to the "fraternal sentiments" of the North, nevertheless, voted: "The objects which all the parties interested may be presumed most to desire, will be best accomplished by referring this subject to the next General Council" of the Southern Episcopal dioceses.[6] Though this postponement was nominally based on consideration for the superior authority of the central organization, it is not necessary to conclude that the local assemblies which acted otherwise were less thoughtful on this point. Probably the true circumstance was a lingering desire in Virginia for the

[1] *Ibid.*, p. 13 *et seq.*, where this action was referred to as a "triumph of principle over feeling."

[2] Before the war Lay was Missionary Bishop of the South-West. When the Confederate States church was formed, he sent in his resignation to Presiding Bishop Brownell and later was made Bishop of Arkansas, a new diocese created by the Southern General Council. In the General Convention of 1865, he was recognized without condition in the former capacity. See *Journal.*

[3] See *Journal,* Ga. Conv., 1866, for a review of the earlier action.

[4] *Journal,* N. C. Conv., 1865, pp. 31-34.

[5] *Journal,* Va. Conv., 1865, pp. 31-33. For a later (1912) contrary estimate of the sentiment for return, see Bishop Joseph Blont Cheshire (of North Carolina), *The Church in the Confederate States,* p. 242.

Three of the Southern dioceses—Florida, Louisiana, and South Carolina—held no conventions in 1865. The action of the special Tennessee convention was probably not known to the Virginian diocesan. *Cf. infra.,* p. 582.

[6] *Journal,* Va. Conv., 1865, pp. 38 *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

continuance of ecclesiastical separation, such as was actually expressed by the bishops of Mississippi, Alabama,[1] and South Carolina.[2] The explanation of this attitude is to be found in various facts in the situation. In the Old Dominion had occurred not only some of the worst fighting, but also some of the most uncanonical action on the part of Northern clergy.[3] A disposition to demand pledges from these offenders before return should be decided on is evident in the bishop's argument that this would be to doubt the sincerity of their brethren, and sincerity was the only possible basis of union.[4] In the two Gulf states, the galling bitterness of conquest, aggravated by fear of the more difficult race problem and by the thought that "the end is not yet," is clearly evident.[5] Moreover, the Alabama diocesan no doubt felt disturbed by the realization that his consecration to the episcopate, accomplished by the Confederate church during the war, might not be accepted by the reunited body;[6] but he spoke for unity with the "Church in the United States" on the same basis as the long-existing bond with the British communion.[7]

Through this discussion among Southern Episcopalians about returning to the Northern body run two significant arguments. One is that they must avoid re-enacting the spectacle so common among other sects, which it was said,[8] had offered to the late Confederates "nothing but violence and denunciation." The other is that reconciliation within the denomination was vital to the process of national restoration. The Bishop of

[1] *Ibid.*, p. 31. *Cf. Journal,* Ala. Special Conv., Jan. 17, 1866, p. 14, where the "Pastoral Letter" of Bishop Richard Hooker Wilmer dated June 20, 1865, is printed. No action is recorded in any of the Mississippi journals.

[2] See *Journal,* S. C. Conv., 1866, p. 27, where reference is made by Bishop Davis to his "Pastoral Letter" issued the previous year.

[3] *Journal,* Va. Conv., 1862, pp. 31-34. With this contrast a later report in the *Journal* of 1864, p. 20.

[4] *Journal,* Va. Conv., 1865, p. 32.

[5] *Journal,* Miss. Conv., 1865, pp. 54-62.

[6] *Journal,* Ala. Special Conv., Jan., 1866, p. 10.

[7] "Pastoral Letter," p. 56.

[8] *Journal,* Ga. Conv., 1866, p. 17. *Cf. Church Review,* vol. XVII, no. 3 (Oct., 1865), pp. 452 *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

North Carolina pointed out that the division of other religious organizations had furthered political disunion before the war;[1] now there ought to be a rejoining of the severed parts, beginning with his own church. If his own church could not reunite, he declared, none could. Moreover, he believed that, should the two Episcopal communions continue separated, rivalries between congregations would certainly result, especially in the border states[2]—a forecast amply demonstrated in the case of other ecclesiastical groups. Such a situation, insisted the Virginia bishop, would be a memorial of the civil dissensions; or was it possible, he asked, to "be more implacable as churchmen than as citizens?"[3]

In view of this record of conciliation immediately following the end of the fighting, it is not surprising that in the General Convention of 1865 three Southern dioceses were represented by clerical and lay deputies.[4] Those from Texas and North Carolina have already been accounted for; the others were from Tennessee,[5] the churches of which, like those of Florida and Louisiana, had been prevented by military conditions from taking part in the Confederate States council,[6] and had had almost continuous contact with their neighbors in Kentucky.[7] As for Georgia, whose vote for return was mentioned abo the diocesan, exercising the discretionary authority gran him, decided to wait for some step by the parent body.[8] B sides the official representatives, Bishops Atkinson and Lay can simply as communicants and sat with the spectators. They were recognized, of course, and invited to sit with their ecclesiastical peers, and when they demurred, the urging was so insistent that they at last consented.[9]

[1] On this point, *cf.* Norwood, *op cit.*, App. III.

[2] *Journal,* N. C. Conv., 1865, pp. 18 *et seq.*

[3] *Journal,* Va. Conv., 1865, pp. 29, 31.

[4] *Journal,* General Convention, 1865, p. 38.

[5] *Journal,* Tenn. Conv., 1866, p. 41, where reference is made to a special meeting of Sept., 1865.

[6] *Journal,* General Council of the Confederate States church, 1862, p. 110.

[7] *Journal,* Ky. Conv., 1865, p. 16. *Cf.* p. 24, Louisville parish report.

[8] *Journal,* Ga. Conv., 1866, p. 15.

[9] Rev. J. H. Hopkins, *op. cit.*, pp. 348 *et seq.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Even so strong a "pledge of the future and entire restoration of the union of the church throughout the length and breadth of the land," as the attendance of the Southern delegates was described in a resolution passed by the General Convention,[1] might easily have been broken in that very assembly; for there were present, also, some of those who had carried through the political action of the preceding triennial meeting. Still leading the group was the effective Bishop of Ohio, who again offered a draft of a "Pastoral Letter" in which was expressed gratitude for the defeat of the rebellion and the destruction of slavery. At once, the Maryland diocesan moved its rejection. It was a tense moment. But the Radicals were in "a very small minority." Moreover, that very rebellion, having ended, could no longer be appealed to as a justification for extreme measures. On the contrary, if reconciliation was to be accomplished, consideration had to be shown for those who had already overcome much in order to be present. Those voting for silence on these points, it is evident, rejoiced no less in the outcome of the war because they took thought for the feelings of others who sought as loyally and honestly to secure a different result. In the end, following the submission of the [illegible]tter to a committee, no letter at all was issued,[2] which de[illegible]ion was in fact a compromise, since it avoided offending not [illegible]ly the Southerners, but also those of the North who could [illegible]ot approve a communication lacking expressions of thanksgiving.

Everything else done in that important gathering, says the younger Hopkins, was a victory for peace and reunion;[3] and so the record of the proceedings indicates. A strong effort to include irritating expressions of gratitude in connection with a special service of thanksgiving was defeated, the wording of the resolution and the prayers being adjusted to the satisfaction of the Southern representatives.[4] Six bishops, also, entered a

[1] *Journal*, 1865, p. 30.

[2] *Journal*, 1865, pp. 212 *et seq.* See, also, the Index of the "Journal of the House of Bishops," (p. 21) under "Pastoral Letter."

[3] *Op. cit.*, pp. 349 *et seq.*

[4] *Journal*, 1865, pp. 64 *et seq.*, 176. See, also, index of the journal of each

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

"Protest" against these omissions. Apparently, however, they aimed not at preventing reconciliation, but rather at securing what to them seemed the least that religious and patriotic feeling demanded. Bishop Thomas Hubbard Vail, of Kansas, in reporting to his own convention in 1866 his joining in the dissenting opinion, declared[1] that he and his colleagues had supported every action to restore unity. In the same year, the Ohio diocesan gave a similar account of his attitude, adding in justice to those who differed with him that some of them were men whose loyalty during the war had been clearly manifest.[2] Both leaders received votes of approval from their respective assemblies, and in the latter case there was passed "without debate" a preamble and resolution expressing gratitude for the outcome of the war and repudiating the seeming disloyalty of the national organization.[3] It would seem, therefore, that Northern Episcopalians were practically unanimous for reunion within the denomination. Only a few showed any desire to impose hard conditions on the late Confederates, as the North Carolina bishop had hopefully anticipated,[4] and the subject did not become a vital issue.

If the one side acted with generosity, the other proved it could rise above defeat. That certain of the seceders attend the General Convention, shows how sincere was the desire accomplish complete restoration, for they knew that harsh la guage had been used against them and realized that the ex tremists might control the assembly.[5] Indeed, the North

House under "Day of Thanksgiving." The vote for omission by dioceses was 20 to 6 for the clergy and 15 to 7 for the laity; by individuals, it was 61 to 20 and 38 to 18, respectively. Among the bishops, the vote was 15 to 7. This shows the strength of the minority.

[1] *Journal*, pp. 19-22, 13 *et seq.* See *Journal*, Mass, Conv., 1866, pp. 20-22, for a similar report by Bishop Manton Eastburn.

[2] *Journal*, pp. 16 *et seq.*

[3] *Ibid.*, pp. 93 *et seq.*

[4] *Journal*, N. C. Conv., 1865, p. 22.

[5] *Journal*, N. C. Conv., 1865, p. 18. Contrast the attitude of Bishop Wilmer, who in a letter to certain Northern bishops called on the parent body, as a test of its sincerity, to put itself right in regard to the political action taken during the war. See *Journal*, Ala. Conv., 1865-66, p. 7. Later (1887), in a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ir presence in the
ause terms impos-
1.[1] As it was, the
t Bishop Wilmer
his consecration
d to by all.[2] Yet
ecclesiastical, not
the case of Rev.
lected bishop by
erved as chaplain
r, he was conse-
nce which moved
wing praise and
ened in political
demonstration of

journment of the
ete restoration of
inty, and during
November, the
left the dioceses
resolution effect-
pirit of charity"
as warmly com-
a sentiment re-
ber 9, a meeting
te, a call for a
convened Jan-
report recom-

9), he declared that
n of 1865 made the
rs.
nv., 1866, p. 28.

General Convention,

6, p. 2.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mending
South C
said that
previous
tion, and
spirit of
ceeded u
all the
instance
But t
ecclesias
war as t
North C
was qu
April 1
to his
honest
the obli
tioned
about t
maintai
been u
quibble
sion of
him as
servan
was les
June 2
plicati
since t
church

[1] *Jour*

[2] *Jour*

62 *et se*

[3] *Jour*

[4] *Jour*

1865, p

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Carolina diocesan maintained that without their presence in the sessions reconciliation would have failed because terms impossible of acceptance would have been imposed.[1] As it was, the only stipulation voted was one requiring that Bishop Wilmer complete the canonical regulations before his consecration should be recognized, which was readily agreed to by all.[2] Yet it must be emphasized that this provision was ecclesiastical, not political. This interpretation is supported by the case of Rev. Charles Todd Quintard, who had just been elected bishop by the diocese of Tennessee. Though he had served as chaplain in the Confederate army throughout the war, he was consecrated at once in that convention, a circumstance which moved the new ecclesiastical peer to words of glowing praise and hope.[3] And certainly, in view of what happened in political circles with respect to Southern leaders, this demonstration of reconciliation is impressive.

From the moment, therefore, of the final adjournment of the General Convention in October, 1865, complete restoration of the unity of the Episcopal church was a certainty, and during the next few months became an actuality. In November, the Southern General Council took action which left the dioceses free to renew their former affiliation. To the resolution effecting this was joined the declaration that "the spirit of charity" prevailing at the recent Northern assembly "has warmly commended itself to the hearts of this council,"[4] a sentiment reiterated in all the state gatherings. On December 9, a meeting of laymen at Mobile passed, by a divided vote, a call for a special session of the Alabama diocese, which convened January 17, 1866, and "unanimously adopted" a report recom-

book, *The Recent Past from a Southern Standpoint* (p. 149), he declared that the absence of certain Southern bishops from the convention of 1865 made the leaders realize that consideration had to be shown the seceders.

[1] *Journal,* N. C. Conv., 1866, p. 11. *Cf. Journal,* Tex. Conv., 1866, p. 28.

[2] *Journal,* Ala. Conv., 1866, pp. 10 *et seq.*

[3] *Journal,* Tenn. Conv., 1866, pp. 41 *et seq.* *Cf. Journal,* General Convention, 1865, p. 48 and index under "Bishop of Tennessee."

[4] These resolutions are printed in *Journal,* S. C. Conv., 1866, p. 2.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mending reunion.[1] One month later (February 14–17), th South Carolina convention did likewise, after the bishop ha said that "Providence" was clearly leading contrary to his ow previously expressed wishes for a continuance of the separa tion, and that they should follow "with clear judgment, th spirit of alacrity, and Christian confidence."[2] Thus it pro ceeded until, with the decision in Virginia the succeeding May all the disaffected dioceses had returned, though in this las instance against some opposition.[3]

But the Southern Episcopal church not only experience ecclesiastical reconciliation; it also accepted the outcome of th war as to secession and slavery. The clear statement of th North Carolina diocesan in the face of this ominous situatio was quoted at the beginning of this article. Under date o April 16, 1865, the Bishop of Virginia issued a circular lette to his clergy, admonishing them of the "duty of prompt an honest obedience to the existing [federal] government, an the obligation to pray for 'those in authority.'" When ques tioned concerning the "military agencies," he admitted a doub about the necessity of including them in the petition, but st maintained "the insufficiency of the considerations which h been urged for a policy somewhat different." Nor di quibble, argued by some, that "the order prohibiting the o sion of that prayer is an invasion of our religious liberty," t him aside. Duty is not changed, he said, because its c servance is disagreeable.[4] In Alabama, however, the dioces was less fortunate in his discrimination. While his pastoral o June 20 recommended allegiance, it also declared that the sup plication in the liturgy on behalf of civil officers did not apply since the state was a military province. Consequently, th churches under his jurisdiction were closed by the command

[1] *Journal,* Ala. Special Conv., Jan., 1866, pp. 4 *et seq.,* 12.

[2] *Journal,* S. C. Conv., 1866, pp. 27, 42. *Cf. Journal* Miss. Conv., 1866, pp 62 *et seq.,* 70.

[3] *Journal,* Va. Conv., 1866, pp. 14, 25 *et seq.,* 29.

[4] *Journal,* Va. Conv., 1865, pp. 21 *et seq.* See *Journal,* N. C. Conv., Sept 1865, pp. 9 *et seq.,* for a similar attitude.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ing general.[1] No record of any other clashes with the authorities was discovered in the present study, but it was reported that certain pastors were compelled for political reasons to leave their parishes.[2]

One might well wonder, however, at the immunity of the head of the Mississippi diocese, for in his convention address on May 4, 1865, he denounced the "theft and ravage and wanton destruction" committed by "a barbarous foe," who is further indicted for the "savage warfare" of desecrating churches and oppressing the population under a "system of espionage." Yet the people are bidden to "pray for the forgiveness of those who are rioting in the midst of the ruin they have created," and to submit to "the inscrutable Providence of God," who punishes "with the rod of the wicked."[3] Nor did the spirit of this churchman quickly subside. In 1866, he characterized "the foe" as seemingly "determined . . . to trample us in the dust,"[4] and a year later he described the situation "in its political aspects" as well calculated to "fill us with indignation at the heartless tyranny to which we are subjected." But, on the last-named occasion, hope began to appear in his acknowledging the evidences of general recovery despite the crop failure, and in his gratitude for the help received from the denominational missionary society.[5] The last record of the attacks of this leader is in 1868 when he took occasion to make an incidental, but definite, reference to his hearers being "surrounded by the same circumstances of poverty and oppression."[6] The other bishops of the South, however, whatever their feelings, adhered to the canons of the church against discussing secular issues.

Equally extreme was the comment of this diocesan on the abolition of slavery, which institution he described as "God's own appointment." Being robbed of half their wealth, he said,

[1] *Journal,* Ala. Special Conv., Jan. 17, 1866, pp. 5-13.

[2] *Journal,* Miss. Conv., 1865, p. 53.

[3] *Ibid.,* pp. 54 *et seq.,* 58, 62.

[4] *Journal,* Miss. Conv., 1866, p. 63.

[5] *Journal,* Miss Conv., 1867, pp. 17, 23.

[6] *Journal,* Miss. Conv., 1868, p. 11.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

caused Southerners to hate the government to which they had to submit.[1] Yet he counseled his hearers that, despite the severing of "the tender and affecting ties" which made the former slaves a part of their own families, they must seek to help them to become good citizens, as well as Christians. A little patience, he thought, would teach the colored people to appreciate this service, and he suggested by way of stimulation to the task that past neglect of duty might have drawn down on themselves the existing calamities.[2] A committee on the problem of the freedmen recommended that the church, "fully recognizing and accepting the change in their social and political status, as having been brought about by the Providence of God," should assume its responsibility for them, however uncertain the future might appear. The pastors were urged to care for their own parish situations by using vigorous measures to collect congregations and establish schools for secular and religious instruction. Thus they might overcome the efforts of the "foreign" teachers who were drawing away the negro communicants and inciting them against their former masters and spiritual guides.[3]

Such in general was the attitude in the other Southern Episcopal dioceses.[4] Care of the spiritual needs of the negroes, as understood in that day by religionists of all stripes, had always been held as a duty of the churches, though methods differed. But, as is well known, the ritualistic denominations seemed not to appeal to the emotional spontaneity of the colored people, and the social prejudices stirred up by the Northern "missionaries" after the war, while affecting all the "South" bodies, added peculiarly to the disadvantage of formalism when the ex-slave was left to choose his own form of worship.[5] Despite apparently conscientious efforts, therefore, the continued hope

[1] *Journal*, Miss. Conv., 1866, p. 64.

[2] *Ibid.*, pp. 69 *et seq.*

[3] *Ibid.*, pp. 63 *et seq.*

[4] See the *Journal* of each of the following conventions: S. C., 1866, pp. 28, 46-49; Tex., 1866, p. 15; Ala., 1866, pp. 11-13, 27 *et seq.*; and others.

[5] *Journal*, Ala. Conv., 1867, p. 37.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for the return of the freedmen[1] did not materialize. For example, in South Carolina in May, 1867, four Episcopal schools were reported in operation and another large one preparing, though it was said also that the negro congregations were not all reuniting with the convention. The next year only two teaching institutions still continued, and after another twelve months the last one was about to close for lack of funds.[2]

Their way of handling the freedmen problem reveals the sincerity of the restoration among the Episcopalians and offers another striking contrast with other sects. As a consequence of post-war hatreds and the failure of the Northern and Southern bodies to cooperate, much of the hundreds of thousands of dollars supposedly expended for "religious reconstruction," actually went, not toward helping the two races to adjust themselves in their new relation, but toward setting the one against the other. This calamitous waste was avoided within the Episcopal church because the funds collected in the one section were turned over for expenditure to the authorities in the other. Even so, the amounts provided were entirely inadequate to the needs, as was true in all the denominations. "The real condition," said a conference committee, "is, that as the years since the rebellion have increased, the zeal in this blessed cause has declined."[3] Indeed, the records of increasingly ineffective appeals for support of freedmen aid which are to be found in the minutes of ecclesiastical gatherings after 1868, indicate that the demonstration of interest in the negro, made by the churches of the North during this period, was a mere political flash in the war pan.[4]

[1] *Journal,* Miss. Conv., 1867, p. 23. See, also, *Journal,* S. C. Conv., 1866, p. 26.

[2] *Journal,* S. C. Conv., 1867, pp. 23, 47; for 1868, p. 50; for 1869, p. 38.

[3] *Minutes,* W. Va. Conference of the M. E. church, 1877, pp. 14, 31. See, also, *Minutes,* Philadelphia Conference, 1868, p. 50, where it is recorded that the aid society was discontinued for lack of "a sufficient interest," and *Minutes,* Cincinnati, Ohio, Conference, 1873, pp. 38 *et seq.*

[4] Prof. Henry Kalloch Rowe, in *The History of Religion in the United States* (p. 102), says of the church freedmen aid, "It is reasonable to believe that most of this happened as a consequence of war fervor." The evidence makes it surer than that.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It is difficult to estimate the full political and social force of this complete reconciliation within the Episcopal church; but the intimate personal associations of bishops and clergy as they moved from one section to the other to minister permanently and temporarily, the periodic gathering of leaders from various parts of the country to direct the missionary and other auxiliary societies, and above all, the sense of unity with its resultant feeling of mutual responsibility for preserving the union of the dioceses, regained under such happy circumstances—these factors must have had an influence beyond the limits of the denomination itself in helping to overcome the irritating effects of the Radical policy of Congress. Evidence of this is to be found in the reports made to the General Convention of 1868. In Alabama, it was said, "the favorable attention" attracted to this church by its post-war experience was "very marked," while, in Mississippi, a changed attitude had developed among the people of the state.[1] Though these signs were interpreted in their meaning for the subsequent advantage of the sect, they must even more reveal a basis of hope for the people of the South as a whole that their fellow countrymen on the other side of Mason and Dixon's line were not all bent on their destruction.

Concerning the situation in the North, however, one might ask, what were a few conservative Episcopalians among the great mass of church members who with Puritanic zeal felt the call to discipline their erring brethren until the offenders repented in sackcloth and ashes for the sins of slavery and rebellion? Yet, it certainly is not without importance that this considerable body of people, representing an influential class in the political organization, set in those days a rare example of an attitude which was vital to complete national reconciliation.

## NOTE I

In the slavery issue among the Methodists, the conferences in the border states were persistently conservative, yet in the division of 1845, which was brought about through differences

[1] *Journal*, General Convention, 1868, pp. 291, 319.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

on this subject, they almost unanimously chose to remain with the denomination in the North.[1] Despite the agreement made by the two halves of the sect with respect to the geographical spheres of influence, there was constant and sometimes bitter conflict between them in those districts where slave and free churches competed for the support of a people still at odds with itself over the problem. The Rock River (Ill.) conference declared in October, 1860, that members and clergy of the older branch were attacked and murdered in the border regions from Maryland to Texas.[2]

Sectional feeling was again brought out in 1860. Memorials came to the General Conference seeking a change in the Discipline so as "directly and unequivocally to forbid slave-holding," since the existing statement was interpreted in certain districts as permitting it.[3] These proposals met vigorous opposition in the national gathering from the border delegates, and as had always been done, refuge was found in compromise. Amendment of the "Rule" would have to be approved by the local conferences, with the risk of defeat, but a more strict "interpretation" could be made official and binding in that assembly, and the majority followed that course.[4] The response throughout the denomination is significant in this connection. Approval, with regret in some cases for failure to go farther, was expressed generally in the conferences of New England and its western extensions.[5] On the other hand, the Baltimore Conference,[6] which included besides part of that city the districts

[1] See resolutions of praise for this attitude in *Minutes,* Troy (N. Y.) Conference, 1861, Apr. 17-23, pp. 40 *et seq.*

[2] *Minutes,* p. 11. See, also, *Minutes,* Southern Illinois Conference, 1858, p. 17; *Minutes,* Missouri Conference, 1859, p. 17; and *Methodist Quarterly Review,* Apr., 1878, pp. 219 *et seq.*

[3] *Minutes* of each of the following conferences—New England, 1859, p. 19; Troy, 1861, pp. 40 *et seq.,* which refers to the action of 1859 and 1860; Pittsburg (Pa.), 1860, p. 15.

[4] *Minutes,* General Conference, May, 1860, *passim.*

[5] *Minutes* of each of the following conferences—New England (composed of Eastern Massachusetts), 1861, pp. 25 *et seq.;* Troy, 1861, pp. 40 *et seq.;* Michigan, Sept., 1860, p. 41; Minnesota, Aug., 1860, p. 27; etc.

[6] *Minutes,* Mar. 23, 1861, p. 18.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of Washington (D. C.), Potomac, Winchester, Rockingham, Roanoke and Lewisburg, voted 87 to 1, with 44 not answering, to withdraw from the jurisdiction of the Northern church, and after the war it completed the process of secession by joining the Southern Methodist body.[1] The East Baltimore Conference,[2] which was made up of another portion of the city together with the districts of Frederick, Cumberland, Juniata, Bellefonte, Northumberland and Carlisle, refused to administer the new regulation in their churches. The Western Virginia Conference[3] did likewise. While stopping short of these examples of nullification, the Philadelphia Conference,[4] dominated by the delegates from the Delaware districts, passed (174 to 35) a resolution requesting the General Conference "to repeal the new chapter on slavery." In the two New Jersey conferences, the issue was avoided by votes to lay on the table[5] and to postpone.[6] Though the minutes of the Southern Illinois Conference for the fall of 1860 were not available for the present study, the records of two years before contain the statement, "We are satisfied with the Discipline . . . as it now is on the subject of slavery."[7] It would be interesting to know whether the sentiment changed as the war cloud approached, for after the firing on Fort Sumter this body clearly advocated putting down the rebellion,[8] but without mention of slavery.

Further evidence of the border attitude was shown in the Western Virginia Conference. In addition to the action mentioned above, a resolution was passed in the same session "utterly condemning any attempt in any way whatever to interfere with the legal relation of master and servant."[9] Yet a few

[1] *Minutes*, Baltimore Conference of the M. E. Church, South, 1884, p. 117, which has an historical sketch of the organization at its 100th session.

*Minutes*, Mar., 1861, p. 26.

[3] *Minutes*, Mar., 1861, p. 15.

[4] *Minutes*, Mar., 1861, p. 12.

[5] *Minutes*, Newark Conference, Mar., 1861, p. 12.

[6] *Minutes*, New Jersey Conference, Mar., 1861, p. 17.

[7] *Minutes*, 1858, p. 17.

[8] *Minutes*, Oct., 1861, pp. 29 *et seq.*

[9] *Minutes*, Mar. 13, 1861, p. 15.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

weeks later, those same Methodist ministers, who made up the body, were found fighting for the union and subsequently were credited with saving their counties from secession.[1]

## NOTE II

With the Presbyterians, sectionalism over political issues is not so evident before the war because complicated with theological controversy. In the thirties, as a result of a doctrinal clash between the communicants "of Scotch-Irish parentage and those of New England ancestry,"[2] the sect was about equally divided into the "New" and "Old" schools, with the former mostly Northern and the latter mostly Southern.[3] Differences over slavery split the New School body in 1858, and after the fighting began, a declaration of loyalty to the Government brought about a like result in the other. In 1864, the two groups in the Confederacy merged, but the union of the others did not occur until 1870.

As the war ended, the New School Presbyterians unanimously passed resolutions establishing conditions on which ministers and members in Tennessee who had supported the Southern cause might be received back into fellowship, none of the condemned being present to oppose.[4] But in the Old School assembly the situation was different. The imposing of political tests for the re-instating of ex-secessionists and even of loyal slaveholders brought forth in Kentucky a pamphlet, "Declaration and Testimony," in which the signers, including persons from Missouri, denounced the action of the central organization and refused to conform. This, in turn, occasioned further condemnation of the new rebels with subsequent divisions, recriminations, and civil suits.[5]

[1] *Minutes,* West Virginia Conference, 1876, pp. 48 *et seq.,* which contains a report of the sessions of 1862.

[2] Walker, *op. cit.,* p. 584.

[3] *Episcopal Recorder,* vol. 38, no. 37 (Dec. 8, 1860), p. 146, editorial.

[4] *Minutes,* General Assembly, 1865, at Brooklyn, N. Y., pp. 14 *et seq.*

[5] This controversy runs through the minutes for the years from 1865 to 1868.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

## NOTE III

The Baptists in the North had no centralized organization in the period under study, but worked through several national associations. One of these was the American Baptist Home Mission Society, the executive board of which resolved on September 27, 1865, that they did "sincerely desire" and would "fraternally welcome, the co-operation of their Baptist brethren in the Southern states in the glorious work of publishing the gospel, in all its fullness of doctrine, precept, and practice, throughout the land; and in all Christian effort to enlighten and Christianize 'every creature.'"[1] This was published, and though there was a response from those "who prefer to educate and elevate the colored race," it met opposition among the intended beneficiaries. Objection was raised also in the annual meeting of the society the following May. The majority report of a committee on the subject maintained that the board's action was "eminently wise and proper," but a minority of one insisted that they "could have no fellowship with former slaveholders and rebels, save as they confess their sins, and 'bring forth fruits meet for repentance.'"[2] In the discussion, a Missouri minister declared, "The conflict of rebel and union elements has been greatly increased by the profuse expressions of generosity from the North to the South, by the favorable overtures made by the Government to the rebels, and by the sympathy manifested by the President." Both reports were finally laid on the table, the Radicals apparently not being able to carry their view through the assembly.[3] By 1867,[4] however, the conditions had changed sufficiently so that the society voted to appoint a committee to represent it at the approaching meeting of the Southern Baptist Convention, and the next year delegates from the latter body were enthusiastically received on their declaration that they came "not to propose any organic connection, but to cultivate fraternal affection and to

[1] *Minutes* of the Society, 1866, pp. 20 *et seq.*

[2] *Ibid.*, pp. 30 *et seq.*

[3] *Ibid.*, p. 24.

[4] *Minutes*, p. 32.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ecure . . . efficient co-operation."[1] In spite of these reciprocal manifestations, it was not possible in a sect which insisted on local independence to secure unity of action, and vexatious difficulties arose, especially over the treatment of the freedmen.[2]

MARK MOHLER

HARVARD UNIVERSITY

[1] *Minutes,* 1868, pp. 27 *et seq.*

[2] *Minutes,* 1871, p. 21. *Cf.* Newman, Albert Henry, *A History of the Baptist Churches in the United States,* (1915), p. 458.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# CONSEQUENCES OF THE PRESIDENT'S UNLIMITE POWER OF REMOVAL

THE President's power of removal is the fulcrum of h legal power to direct and control the executive branc of the government. On the subject of removals, ex cept by process of impeachment, the constitution is silen Does the President derive this power by implication from th general constitutional grant of "executive power," or does belong to him only by allowance of Congress and subject t such conditions and restrictions as Congress may by law im pose? This question has been moot from the beginning o our history. It was settled by the United States Suprem Court in the case of *Myers, Administratrix v. United States* decided in October, 1926.

Whatever its constitutional powers, the practices of Congres have been various. For many years the President was, lik interstate commerce, left "free and untrammeled" in this mat ter. In 1820 a four-year term was prescribed for a conside able number of federal officers of local jurisdiction, such a district attorneys, collectors and surveyors of customs, register and receivers of land offices. In the course of time limite terms were ordained for other similar officers and especially fo postmasters, who were in 1836 made subject to presidentia nomination.

Of course in one sense a limitation of term operates as removal—a removal not made by the President. Moreover when a term expires, even though the President renominates the Senate may refuse confirmation and thus in effect accom plish a removal. But manifestly the object of limiting term of office was not to check the President's power of removal The alleged justification was the democratic dogma of rotatio in office. But the real object was to bring these offices actively into politics for the partisan use of both the President and th Senate by making periodical vacancies automatic. Certainly that was the result, whatever may have been the purpose. An



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Presidents have not been heard to complain. They never thought of this as a restriction upon their powers. Quite the contrary. Moreover, a fixation of term was never regarded as prohibiting a removal before the expiration of the term,[1] although Presidents have frequently permitted the doom of an officer to be struck by the statute of term limitations rather than by a positive act of removal.

In 1867, during the administration of President Johnson, came the famous Tenure of Office Act. Conceived in hostility and born in hate, this law required senatorial confirmation of practically all presidential removals. The statute was modified under Grant and finally repealed under Cleveland, twenty years after its enactment. It was declared void in the recent *Myers* case—forty years after it had ceased to exist.

In the eighteen-seventies, while this Act was still in force, Congress in excess of caution additionally provided that the President should take the "advice and consent of the Senate" upon the removal of first, second, and third class postmasters. These officers constituted then as now a group that far outnumbered all other presidential appointees combined. This law Congress never repealed. It may be that in the interim of nearly fifty years since its passage Presidents have occasionally removed postmasters without complying with this law. It is entirely possible that some Presidents have not even known of its existence. But during most of this period, as everybody knows, postmasterships have flourished as the richest and best crop of party spoils. The machinery used for harvesting was sometimes a request for resignation. Whether in ignorance of the law of 1876 or in deference to the "higher law" of party prerogative, such resignations commonly came promptly forth. More usually the President has pursued the practice of nominating a person to take the place of an incumbent. Confirmation by the Senate has operated not only to instal a new appointee but also to remove an incumbent. In fact, therefore the Senate has by a single act consented both to a removal and to an appointment. Thus has the law of 1876 been generally

[1] This point of law was specifically determined in *Parsons v. United States*, 167 U. S. 324 (1897).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

complied with, though truth to tell the practice did not grow out of the law. As early as 1835 Webster declared on the floor of the Senate that this same practice had been regularly followed since the beginning of the government.

In relatively recent years Congress has imposed a wholly different kind of restriction upon the President's power of removal. It has by law sought to give something of independence to certain high officers (however "inferior" in constitutional theory) by prescribing causes for which they may be removed during their fixed terms. Protection of this kind has been extended especially to the members of important commissions and boards, such as the Interstate Commerce Commission, Federal Trade Commission, Tariff Commission, Federal Reserve Board, Federal Farm Loan Board, Railroad Labor Board, United States Shipping Board, and the Board of General Appraisers. Some of these statutes have and some have not specifically declared that removal may be made only for the causes designated. But whether or not the statute attempts to fix the sole grounds upon which removals may be made, the prescription of limited terms and the laying down of causes for removal have apparently had a deterrent influence upon the President. At any rate in such circumstances the President has seldom, if ever, made removals.

Finally, in 1920–21, Congress prescribed a wholly unique method of removal. In the law creating the office of Comptroller General and Assistant Comptroller General of the United States it was provided that these officers, appointed by the President and the Senate for terms of fifteen years, could be removed only by joint resolution of the House and Senate after a hearing upon specified causes, or by impeachment. President Wilson vetoed this law on the ground that it unconstitutionally deprived the President of his power of removal. Shortly after the Harding administration began the law was reenacted and was approved by the President.

This, in brief résumé, unfolds the essential features of the history of congressional action in this matter. It tells nothing, however, of the oft-debated legal question concerning the source of the President's power to remove and the competence

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of Congress to restrain him in its exercise. Nor is it now important to review the few cases antedating 1926 in which the Supreme Court has expressed opinions on this or that aspect of the subject. Suffice it to say that down to October of that year the court never passed upon the fundamental question: May Congress impose restrictions upon the President in this matter; if so, are there any limits to its power to restrict?

This question came before the Court by reason of an act of President Wilson in 1920. He summarily removed the postmaster of Portland, Oregon. He did not ask for his resignation. He did not follow the practice of nominating a successor whose confirmation by the Senate would remove the incumbent. He violated the law of 1876. Was this law valid?

By a vote of six to three the Court held the law void. In the opinion and judgment of the majority the power of the President to remove any officer whom he nominates, and by and with the advice and consent of the Senate appoints, cannot be restricted by law. Otherwise, runs the main argument, he cannot adequately exercise the "executive power" which the constitution vests in him nor properly perform his constitutional duty to "take care that the laws be faithfully executed." Congress can not only not require the consent of the Senate to the removal of such officers but also can not impose any other statutory limitation. If the law specifies the causes for which removals may be made, the President may nevertheless remove without assigning any cause. This applies to all officers who are appointed by the President and the Senate with the exception of judges of United States courts, who by the constitution "hold their offices during good behavior," and with the possible exception of judges in the territories and outlying possessions. As to the latter, judgment was reserved.

The ins and outs of this rather intricate constitutional question need not be discussed here. The difficulties that surround it are perhaps revealed by the fact that Chief Justice Taft, who spoke for the majority, employed twenty-two thousand words to explain why the President could not be restricted; while two of the dissenters, Justices McReynolds and Brandeis, each required almost as many words to set forth the contrary view.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Speculation is rife as to what institutional effect this decision may lead to. The probability is that it will have no far-reaching effect. As to some presidential appointments the decision puts Congress, and especially the Senate, on the sharp horns of dire dilemma. To be sure, Congress can by law surround those "inferior" officers who are not appointed by the President and the Senate with some protection against removal. But Congress can do this only by providing that such officers shall be appointed by the President alone, by the heads of departments, or by the courts of law. Obviously appointment by the courts may be ignored. Apart from any other consideration, to vest the power of appointment in the courts would be political self-denial beyond human capacity. To give the President exclusive power to appoint would destroy the Senate's jealously guarded power of scrutiny over presidential selections. The Senate knows all too well that this succulent power to consent to appointments yields far more in practical politics than the rather juiceless power to impose statutory restrictions on the President's authority to remove. Moreover the decision leaves the question open as to how far Congress may go in placing restrictions upon the removal of officers appointed by the President alone. The Senate therefore, however aggrieved it may feel at this decision, is not likely to relinquish a substantial political reality—its share in the appointing power—in order to assert an uncertain constitutional competence to limit the President's power of removing officers whom he is authorized by law to appoint without the Senate's consent.

Nor is it probable that Congress will make any wholesale transfer of the appointing power, as now prescribed by the statutes, from the President and the Senate to the heads of departments. This again would mean that senators would cease to scrutinize presidential nominations. They would no longer enjoy the experience of being "courteous" to one another in the high prerogative of backing up the demands of individual senators upon the patronage. Courtesy of this kind is far too precious a possession to be lightly tossed aside.

Moreover, the dissenting opinion of Mr. Justice Brandeis to the contrary notwithstanding, there is at least one limitation

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

which Congress may not impose upon the heads of departments in making removals. It may not require the consent of the Senate. As far back as 1886 the court felt "no doubt that when Congress, by law, vests the appointment of inferior officers in the heads of departments it may limit and restrict the power of removal as it deems best for the public interest."[1] This view was not overruled by the decision of 1926; but it was narrowed. The majority declared quite emphatically that whatever other restrictions might be placed upon the removing power of department heads Congress could not constitutionally require senatorial consent.

Congress, then, is not apt to make any radical change in the existing situation under which officers are appointed. But what of the President? Has this decision greatly enlarged his powers? In legal theory it unquestionably has done so. It gives him full rein. Judges excepted, he may retire every presidential appointee to private life at a stroke of the pen. He can be as capricious as he chooses to be. "Caprice" is more than once referred to in the dissenting opinions. But caprice seldom gets a President or anybody else anywhere. The history of the office shows that we may certainly count upon normal political acumen in the presidency. Prompted by this decision a bold President—a Jackson, a Lincoln, a Cleveland, a Roosevelt, a Wilson—may on occasion be bolder than he would otherwise be. But at best or at worst such instances will be only occasional.

The President now has it in his power to abandon the procedure of making removals by nominating successors whose confirmation by the Senate operates to remove incumbents. He may, if he elects to do so, now make the removal in advance of submitting a new nomination, even though the Senate be in session at the time. But manifestly the Senate in passing upon the new nomination whenever it is presented has full opportunity not only to voice disapproval of the removal but also to harass the President by refusing confirmation. Meanwhile the office remains vacant. Moreover, in view of the established practice of allowing the individual senators of the

[1] *United States v. Perkins*, 116 U. S. 483 (1886).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

President's party almost complete control over federal appoint ments in their respective states, it is difficult to see what th President will gain by making an opposed removal only to sub mit to dictation in respect to a successor in the office. As t such offices this decision may in rare instances invite the Presi dent to a show of pugnacity. But the removing and appoint ing powers are so closely tied together that by and large h will probably find no great comfort in making what is, afte all, a fairly futile gesture of independence. Far from destroy ing senatorial courtesy, the effect of this pronouncement, if th President acts upon it, will doubtless strengthen the practice.

The provisions of law prescribing causes for which certai officers appointed with senatorial consent may be removed b the President have by the spacious dictum of this decision bee swept off the statute books. The Chief Justice went out of hi way to say: "There may be duties of a quasi-judicial characte imposed on executive officers and members of executive tribu nals whose decisions after hearing affects interests of individu als, the discharge of which the President cannot in a particula case properly influence or control. But even in such a case h may consider the decision after its rendition as a reason for re moving the officer, on the ground that the discretion regularl entrusted to that officer by statute has not been on the whol intelligently or wisely exercised. Otherwise he does not di charge his own constitutional duty of seeing that the laws b faithfully executed."

Will this encourage the President to remove members of th Interstate Commerce Commission if he disapproves of a rat decision rendered by them? Or members of the Tariff Com mission if his mind does not run along with theirs in respect o a finding and recommendation? Whatever the law, as thus ex pounded, the President will probably not often follow the ind cated lead. He will not do so because of the nature of th duties that are imposed upon these important commissions an boards and the attitude of the public mind toward them. Th law of 1916 which created the Tariff Commission, provided fo removal for specified causes. But even before the decision o

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

1926 the President, under the rule of a case decided in 1903,[1] could nevertheless remove members of this Commission without naming any cause. Despite this fact President Coolidge, about to nominate a member of the Commission in 1926, asked the prospective appointee for his undated resignation. The presidential request was very properly refused. But why was it made? Probably because the Republican President thought that the Democratic Commissioner (the law required a division of membership between the two parties) would thus be held to "sounder" views on the tariff; if this hope proved vain, he could be ousted without the positive act of removal which might give rise to too great criticism. The President was apparently sanguine to believe that he could secure secrecy in the matter by springing an undated resignation which he had clubbed out of the officer in advance of his being nominated. In fact he secured neither the resignation nor the secrecy. But the episode illustrates the hesitancy which Presidents will doubtless always have in actually removing officers of this kind before the expiration of their terms. Viewed in the light of practical politics, this decision probably does not put the members of the several great national commissions in imminent jeopardy of presidential wrath. Nor will it place their offices in the category of party spoils upon a change of party at a presidential election.

As for the Comptroller General and his Assistant, a President who summarily removes one of these officers must be not only brave and defiant but also ready for a fight to a finish. Congress does not lack retaliatory powers.

On the whole, therefore, it seems possible greatly to exaggerate the institutional consequences of this decision. Congress, if it be wise, will continue to impose restrictions on the President's power of removal whenever it deems restrictions expedient. These will not be legal compulsions; but they may serve as moral guideposts—perhaps even as danger signals.

HOWARD LEE MCBAIN

COLUMBIA UNIVERSITY

[1] *Shurtleff v. United States*, 189 U. S. 311 (1903).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# THE RESEARCH FELLOWSHIPS OF THE SOCIAL SCIENCE RESEARCH COUNCIL

AIDING students of high promise but slender means to prepare themselves for service in the church, the learned professions, or the arts and sciences has been a favorite form of philanthropy in Europe for a thousand years. Universities early became the chief repositories of gifts and bequests made for this purpose, as well as the chief agencies for selecting beneficiaries and supervising their work. When colleges were established in the American colonies, they followed this European precedent as rapidly as they could secure the necessary means. The rise of post-graduate study greatly increased the need, and every institution which aspired to be a university began offering fellowships to candidates for the master's and doctor's degrees. No one seems to know how many such awards are made annually in the United States; but they must certainly be counted by hundreds.

Of late numerous organizations of other types have entered the field, supplementing the long list of university fellowships. Examples are: the American Institute of Architects, the Charles A. Coffin Foundation, the Carnegie Endowment for International Peace, the Rockefeller Foundation, the Music Fund, the Institute of International Education, the American School of Classical Studies, the American Schools of Oriental Research, Sigma Xi, the Netherland-America Foundation, the American-Scandinavian Foundation, the National Research Council, and the John Simon Guggenheim Memorial Foundation.

Some of the fellowships offered by universities and most of those offered by other organizations can be used by American students who wish to study abroad. On the other hand, there are at least two large organizations—the Commonwealth Fund and the Laura Spelman Rockefeller Memorial—which grant fellowships to foreign students wishing to study in the United States. Many of our university fellowships, also, are open to students of any nationality.



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

When in 1924 the Social Science Research Council sought a grant from the Laura Spelman Rockefeller Memorial to establish a number of research fellowships, it planned to meet needs not adequately provided for by this elaborate but unorganized array of fellowships already in existence. Of course, the general field of operations was marked out by the character of the Council itself—"the field of the social sciences, broadly construed." But how could the new fellowships best be used to foster the growth of the social sciences? Should the immediate aim be to promote study of selected problems or to develop the powers of research workers? If the latter aim was preferred, what type of man promised the largest returns? And what opportunities should be provided for the holders of fellowships?

These problems became the particular concern of the Committee on Research Fellowships—Professor Charles E. Merriam, Chairman of the Social Science Research Council, Professor F. Stuart Chapin of the University of Minnesota, and the writer, who served as committee chairman. In its first year, this committee felt its way, experimenting freely. On its recommendation, fifteen fellowships were granted in 1925, some primarily to help in the execution of specific researches, some with the hope of developing promising workers. In age, the appointees ranged from the early twenties to the middle forties. In academic standing, they ran the gamut from graduate students to professors of established reputation. Most of the successful candidates had received doctor's degrees, but some had not. The number who wished to go abroad and the number who wished to work in this country were about equal. The undertakings proposed varied from devising new techniques to exploiting known sources by familiar methods.

We cannot yet appraise the results of the experiments begun last year. Most of our conclusions remain tentative and subject to revision. But one thing seems clear. We can serve the interests of all concerned by stating the general lines of policy which commend themselves to the Committee, and by inviting critical comments.

Our first conclusion is that the fellowships should be used to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

promote the development of research workers, rather than to aid in the execution of research projects. Since the first set of appointments was made, the Social Science Research Council has created a Committee on Planning and Policy, to which applications for grants in aid of specific undertakings can be made. It seems obvious that the Committee on Research Fellowships should avoid overlapping the other Committee's field.

In seeking to promote the development of research workers, the Committee thinks the chances of success are brightest with candidates in the late twenties or the early thirties. Older men may well be preferred for the guidance of researches sponsored by the Committee on Planning and Policy; they commonly have projects suitable for presentation to that Committee; but they seldom have as much capacity for intellectual growth as they had when younger. Candidates in the early twenties, on the other hand, have seldom given unequivocal evidence of that marked gift for research which the Fellowships Committee asks, and they are commonly eligible for university fellowships —another field which the Committee should not invade.

There is a further reason for concentrating upon men of the years suggested. Generous as American universities have been in helping graduate students to obtain doctor's degrees, they have not been generous or wise in treating their young instructors. A newly-fledged doctor, appointed to a junior position in one of our departments, is usually assigned a heavy teaching schedule, when he neither knows thoroughly the subjects he has to cover, nor knows how to teach. During the years when he would be most likely to make discoveries, he is kept exceedingly busy mastering new subjects, marking papers, acquiring class-room skill, and often eking out an inadequate salary by non-scientific work. That is a most effective system for discouraging research. Only the most vigorous or the most fortunate men keep their creative faculties intact for the years when promotion enables them to command a scanty leisure by becoming exploiters of a new generation of youthful instructors. We say little about this scandal of which we are all conscious, but which we have not thought we could mend. Recently, cheering signs of a change for the better have begun

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to appear. Some universities have established fellowships especially for their young instructors. Others have obtained funds for supporting research programs in which young faculty members can join. Still others are seeking to cut down the teaching schedules of individuals with marked capacity for research. And of course no large proportion of university instructors really belongs in that category. But the need is far from met. If our few research fellowships can give the ablest among the hundreds of men who aspire to do scientific work in the social field opportunity to develop their powers while they are still in their flexible years, we may hope for large results, ultimately if not immediately.

What opportunities do such men need to develop their powers? Leisure from bread-winning for a year or two? Clerical assistance? Apparatus? Computors? Traveling funds? Some combination of these things? The applications which come to the Committee on Research Fellowships indicate that the needs are most varied, and the Committee seeks to provide what each case requires, so far as its funds permit.

One need is seldom stated, though the Committee cannot believe it to be rare. Very few of the applicants express a desire for further study. It would seem that the young American doctor feels that his education, if not complete already, can best be completed by constructive work on some problem dear to his heart. Perhaps he is right in the majority of cases. Yet it is worth considering whether work with some master of his field may not help a young scientific inquirer to attain his highest capacity more than work by himself.

To repeat: the Committee on Research Fellowships is feeling its way. The lines of policy here suggested are not definitely fixed. Criticisms and suggestions are eagerly desired. Doubtless the Committee will make mistakes and the sooner they are recognized the better. The cooperation of all men interested in developing the social sciences is needed to make the research fellowships as useful as they should become.

WESLEY C. MITCHELL.

COLUMBIA UNIVERSITY

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# REVIEWS

*Jefferson.* By ALBERT J. NOCK. New York, Harcourt, Brace and Company, 1926.—340 pp.

Perhaps it is the interest aroused by the sesqui-centennial anniversary of American independence, perhaps a steadily growing appreciation of the immense influence of Thomas Jefferson in shaping the development and the destinies of American democracy, that accounts for the recent output of Jeffersonian literature. We expect a new biography of Lincoln every few months; but it begins to look as if Jefferson were to rival the Great Emancipator in his appeal to the American public. Within two years we have had the brilliant work of Claude G. Bowers contrasting the personalities and policies of Jefferson and Hamilton, the excellent biography of Jefferson by the English economist, F. W. Hirst, and a valuable edition of the correspondence between Jefferson and Adams.

Mr. Nock, in this latest presentation of Jefferson, modestly renounces the claim to be either a biographer or an historian. The book, he says, "is not meant to be a biography of Jefferson or to take the place of one. It is a mere study—a study in conduct and character—and therefore it takes no account of long stretches of biographical material which is otherwise most valuable, but contributes nothing to this special purpose." That is why Mr. Nock disposes of the political events of Jefferson's presidency in a chapter of 47 pages, while he gives two chapters and a hundred pages to the five years of Jefferson's sojourn in France (1784-1789), which he finds particularly fruitful in illustrations of the great Virginian's views upon a variety of social and economic matters.

It is a many-sided Jefferson that Mr. Nock portrays: the indifferent lawyer, the enthusiastic farmer, the astute politician, the indefatigable student, the impassioned educator, the musician, the naturalist, the architect, the inventor, and, above all, the undeviating devotee of democracy. Yet, it is after all a Jefferson who is already pretty well known in all these rôles. The author makes no attempt, under such a title as "The True Thomas Jefferson," to introduce any revolutionary interpretation of his hero's character or to disturb the generally accepted estimate of his relations with Hamilton and other contemporaries. Mr. Nock does, however, as befits an econo-



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mist, suggest some very interesting ideas as to the underlying cause of Jefferson's disagreement with the Hamiltonian policies. That cause was not political, but economic. "It is mere idleness to think of the author of the Embargo Act as a doctrinaire enemy of strength in government: it is quite as idle to think of one who wrote as Mr. Jefferson did repeatedly in 1787 about the coercion of the States under the Articles of Confederation as a doctrinaire enemy of centralization" (p. 271). Jefferson's real objection was not to centralization, but to exploitation. He saw in Hamilton's program the safeguarding of the interests of the monopolist, the capitalist, and the speculator, leaving these three groups free to exploit the producer in "harmonious association." "He was for the control of government by the producing class, that is to say, by the immense majority which, in every society, actually applies labor and capital to natural resources for the production of wealth. His instincts reacted like the reflex action of an eyelid against anything that menaced that interest. Hamilton's instincts reacted as promptly against anything that threatened to disturb the preponderance of the exploiting class" (p. 192). These instincts in both Jefferson and Hamilton determined their actions as well as their explanations of their actions. The one man was no more "doctrinaire" or "theoretical" than the other. This psychologic-economic interpretation of Jefferson's political philosophy is the chief contribution of Mr. Nock's book, and it is a corrective to the undue emphasis often put upon the political motive.

One may be inclined to criticize the author for devoting too many pages to the details of Jefferson's avocations—his gardening, nail-making, moralizing, and fireside reading. But one must remember that it is "a study in conduct and character" that Mr. Nock has written. After all, even a statesman's character is more truly revealed by the tastes of his leisure hours than by the formal public utterances in which, like Tennyson's parson, "he says what he ought to say." Mr. Nock, therefore, has drawn sparingly upon the "official" sources for Jefferson's career, and essayed the more difficult task of portraying Jefferson the man—with his rich endowment of versatile genius, his insatiable curiosity, his finely balanced enthusiasms, his sensitive mentality, and his intellectual and moral courage. The book is written in a delightful style, which often verges on the journalistic, in the best sense of the word. Again and again the reader will chuckle, inwardly, at least, over a subtly humorous phrase. For example, "When Satan approached Jeffer-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

son with the proverbial wares of mischief, they found a closed market" (p. 91); or Jefferson prevented Adams from returning to the United States "with the dead and malodorous albatross of American credit hung about his neck" (p. 128); or again, "Jefferson never seemed aware that the prospect of getting an unearned dollar is as attractive to an agrarian as to a banker" (p. 274).

Mr. Nock's book is somewhat marred by errors which an "historian" would have avoided. When he says that William and Mary was "the second institution of higher learning set up on this continent" (p. 5), he forgets the universities in Mexico and Peru which were in existence a century before Harvard was founded. The debts owed by Americans to British creditors remained unsettled long after "the adoption of the Constitution" (p. 65). Jefferson drafted the Ordinance of 1784 not "for the government of the Northwest Territory" (p. 76), but for the whole territory west of the Appalachians. The treaty of 1778 did not "bind the United States to fight on the side of France, on demand, in any European war" (p. 208). Charles C. Pinckney, and not Thomas, was Adams' running-mate in the election of 1800 (p. 241). Jefferson was not "employed in revising the Virginia statutes in 1797" (p. 312), but had finished that work nearly twenty years before. And, finally, Mr. Nock, on pages 231-2, repeats a number of stories about Adams' last day in the White House, which he would know are discredited if he had followed the work of the later historians (Professor Channing's fourth volume, for example). The reviewer is still wondering whether the author was joking when he wrote (p. 222): "The figure of [John] Adams is perhaps the most congenial—one may say perhaps the most lovable—of any made on the pages of history by an American of his period."

DAVID S. MUZZEY

*The Rise of the Spanish Empire in the Old World and the New.* Volume III: *The Emperor.* By ROGER BIGELOW MERRIMAN. New York, The Macmillan Company, 1925.—xxiv, 695 pp.

After a wait of seven years since the publication of the first two volumes in Professor Merriman's great work on the Spanish Empire, the third has at length appeared. It is concerned wholly with the period of the Emperor Charles V, divided into two "Books" entitled respectively "Spain in the Old World" and "Spain in the New World," with the former comprising six of the ten chapters.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The treatment is topical. The "Old World" chapters take up such phases of the reign as the Spanish civil wars, rivalries with France, conflict with the Moslem peoples of the Mediterranean, and questions growing out of the Reformation movement successively, rather than according to a chronological plan, while the "New World" chapters treat primarily of Magellan, Cortés, and Pizarro in turn. Each "Book" has one institutional chapter, mainly political.

Naturally, there is much about Merriman's treatment that is reminiscent of his methods in the two volumes which preceded this. (For an extensive survey of volumes one and two, see the *Hispanic American Historical Review,* I, no. 4, pp. 435-441). The author is still a latter-day Prescott, interested in narrative political history on its diplomatic and military side and in personages more than peoples. The same mastery of materials is in evidence, and the same manner of presenting them in ample notes at the end of each chapter is followed here. And the book is so carefully formulated and so well written that it is easy to read.

The reviewer believes that this volume is less open to criticism on account of mistakes than either of its predecessors. From the standpoint of subject-matter the author is probably more conversant with the period covered by the "Old World" part of the present volume than with any other portion of the long and complicated series of events he has proposed to deal with in his four volumes. On that account, only those who have made the most minute studies in this field are likely to find any errors. For that same reason, however, one may be led to expect too much of the author. The story in its details over such a well-known period is inevitably a familiar one. The author must have found great difficulty in condensing it into its allotted space, leaving scant room for anything strikingly new. This is not to say that there is no contribution here in the incidents of his tale. To be sure, printed works are the main reliance of the author, and he repeats his earlier expressed conviction "that the amount of practically unutilized printed material for Spanish history still remains so vast, that it is quite as important that it should be thoroughly explored as that extensive researches should be made for something new." For a work of such broad scope as Merriman's this is undoubtedly true, and the author's use of volumes of that class is virtually a contribution, certainly so in English, if not in Spanish. Nevertheless, one finds noteworthy items here and there that are based on manuscript sources, made available in print for the first time.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

More interesting than details, however, is a certain freshness in point of view, giving new meaning to events already well known. The cross-currents growing out of the exaggerated Spanish individualism are clearly to the fore. The emergence of Spain from her medieval isolation into first rank as a world power is strikingly portrayed as something thrust upon her for the dynastic ends of the Hapsburgs. Meanwhile the emperor himself, who begins his career as an unsympathetic foreigner, grows more and more Spanish in the background of his imperial point of view. He makes Spain great, but also makes her pay the price in blood, treasure, and loss of self-government, and Professor Merriman questions whether Spain profited by the deal. The author shows how Spanish America evolved from an obstruction along the route to the East Indies to a region that was far more important than the rest of the empire and the principal financial resort for the Hapsburg policies in Europe. He remembers medieval Spanish parallels in dealing with the New World conquest—that it was in a measure "a prolongation of the Crusades," and that many Spanish institutions were revived, as for example in the case of the importance of the municipalities, which eventually gave way before centralization and absolutism as they had done long since in Spain.

It not infrequently happens that the historian of broad views as concerns subject matter is a little careless in the minutiæ of technical workmanship. If that was notably the case in Merriman's first two volumes, it is still to some extent true, especially with respect to inconsistencies and inaccuracies in the use of accents on Spanish words. In all other particulars, however, there is less grist for the critic than in the other volumes. In any event it is not a vital matter in the present series, for the author's evident care in the use of his materials appears in other ways.

Though it has nothing to do with the book, as such, it may be not inappropriate to mention that the author wrote the present volume under difficulties, following an injury to his eyes, that make his work all the more praiseworthy as a magnificent human achievement and that, incidentally, reinforce the parallelism between him and Prescott.

CHARLES E. CHAPMAN

UNIVERSITY OF CALIFORNIA
BERKELEY, CALIFORNIA

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*The Foreign Service of the United States.* By TRACY HOLLINGSWORTH LAY. New York, Prentice-Hall, Inc., 1925.—385 pp.

The reorganization of the Foreign Service of the United States by the Rogers Act of May 24, 1924, is an important landmark in the development of governmental organization in the United States. The act provides for a trained and experienced personnel to conduct American foreign relations, protected by the merit system, the future of its members guaranteed by a pension, and with the further important advantage that the higher ranks in the service can be reached through advancement on the recommendation of an examining committee of service men. The author of the book under review, himself a Consul General, writes as a service man imbued with the importance of the change, and qualified to speak on the administration of foreign affairs. The reviewer regrets that there is not more of Consul General Lay in the book and less of the disguished publicists whom he quotes.

The most valuable part of the book, and this part is of much value, is the study of the organization of the Department of State, the Consular and Diplomatic Service and of the various other agencies of the government, astonishingly numerous, which have to do with foreign affairs. Students of American Government will be interested in the chapter on the difficult question of interdepartmental relations, a problem which is not alone apparent in connection with foreign affairs. The author describes the interlocking system adopted through the Department of State, but his chapter only gives enough to make the technical readers eager for a further explanation of the relations of the Health, Labor, and State Departments in the operation of the Immigration Law and the interrelation between the Departments of Commerce and of State. Very briefly, the author treats (chap. i) of the development of the Department of State and of the Diplomatic and Consular Services. The story of the reorganization of the Foreign Service, and the culmination in the act of May 24, 1924, is told with liberal quotations from the testimony before the Congressional committees and from the statements of other diplomatic representatives.

The author touches on the effect of the spoils system in the Foreign Service, one of its favorite fields (pp. 11, 17, 51, 232). The reviewer commends his suggestion that it is less harmful to the public to fill party chests through the sale of titles of nobility, as in Britain, than to use positions in the diplomatic corps as rewards for

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

persons who have made or influenced liberal contributions. So long however, as the need to fill party chests is so great and the principle of giving something for nothing not very well established, the reviewer fears that many ambassadors and ministers will in the future, as in the past, owe their appointments rather to service to the party, financial or otherwise, than to meritorious conduct as officers in the Foreign Service. Another consideration against service men as ambassadors or ministers, to which the author does not give sufficient weight, is the importance of having in the great foreign capitals men who have the confidence of the administration and who can interpret its point of view, men who in addition know the state of public opinion in the United States, so that foreign officers dealing with them can rely upon their judgment. In his thoughtful foreword Ex-Secretary Hughes stresses the fact that one object of the new diplomacy "is the understanding of peoples" (ix), and the author stresses the importance to a modern diplomat of acquaintance with leaders of opinion (p. 119). Cannot such contacts be better established through heads of diplomatic missions who have not themselves spent most of their lives as foreign officers in other countries than their own?

Again the importance of the economic as against the political factor in international relations is stressed (p. 119), and while a foreign service officer would gain a very important insight into economic conditions through his work as a consul (p. 45), would it not be of greater value to the foreign office to which he is accredited and to his own government if the head of the mission is himself an American acquainted personally with the home economic position? This does not mean that service men of strong character and wide experience, notably men who have held the higher positions in the State Department itself, and thus come in contact with the President and American business men on American soil, should not be effective ministers or ambassadors. The author cites an impressive list of service men now heading American embassies or legations (pp. 242-3). It is to be feared, however, that men of the first-class ability who enter the Foreign Service and might eventually serve as ambassadors or ministers in the important countries will be tempted away from the service by the advantages offered by private business (p. 250). The salaries (p. 258), even with the retirement system (pp. 281 and 319), will scarcely hold young men of ability as negotiators and men of affairs. To the reviewer, however, the probability that the heads of missions will not be service men, emphasizes the value,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

which is stressed through the work, of a trained staff, upon which the non-professional chief may depend.

Chapter II on the Control of Foreign Relations reveals the maze of authorities in our government who may influence our foreign policy, a maze which has caused more than a little bewilderment to foreign diplomats and which the author's very brief chapter will not go far towards clearing up. The power of Congress to limit the appointments and removals by the President (pp. 59 *et seq.*) has now been restricted by the decision in the case of *Myers vs. U. S.*

The author devotes an interesting chapter to education for the Foreign Service, describes the existing Foreign Service School (p. 355) and gives good reasons for discarding the suggestion that there be an Academy of Diplomacy (p. 342) established at Washington, but recommends in its place a National Academy of Foreign Relations as a graduate school with a certain number of government scholarships to be won on merit. This school would be charged with the duty not only of training future foreign officers, but of educating the nation at large in foreign affairs.

JOSEPH P. CHAMBERLAIN

*The Cambridge Ancient History.* Volume III. *The Assyrian Empire.* Edited by J. B. BURY, S. A. COOK and F. E. ADCOCK. New York, The Macmillan Company, 1925.—xxv, 821 pp.

The original project of the *Cambridge Ancient History* contemplated an eight-volume series. It is fortunate that the editors are in a position to expand the length of the series to meet the demands of new materials. Such a demand has arisen through the increase of historical evidence upon the five centuries (ca. 1000 B. C. to 478 B. C.) covered by the volume which has just appeared. The enlarged prospectus now calls for a supplementary volume which will treat the many historical problems of this period which have necessarily been omitted from volume III.[1]

The result of this expansion has been, in one respect, quite unfortunate in its effect upon the volume now under review. Thirteen British scholars, each a specialist of high repute, both within and beyond the limits of his specialty, have collaborated in the production of the volume. Its expansion into two volumes has served to exaggerate the lack of cohesion characteristic of the historical evidence and of the cooperative and specialistic method under which the

[1] Volume IV has now been published.—ED.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

volume has been produced. In accepting or rejecting this criticism it is only fair to call to mind that the attempt at an historical synthesis is by no means so possible of fulfilment in dealing with these five centuries as it was for the period treated in volume II.

What unity has been attained in this volume centers about the "relapse" of the Assyrian Empire (1100-900 B. C.) and its "re-establishment" in the three centuries from 900 B. C. to the fall of Nineveh in 612 B. C. This has been done in five chapters by Mr. Sidney Smith of the British Museum. To me these five chapters stand out as the most brilliant single achievement which has so far appeared in the series, an achievement equally creditable to the single scholar who is responsible for it and to the other Assyriologists whose researches have made his treatment possible. The result is astonishingly lucid as compared with all previous attempts to give to Assyrian ascendency a definite meaning and place in ancient history. Here the Assyrians appear as a people remarkably gifted, gifted in their devotion to administrative detail and in their power to systematize (p. 54). There is no attempt to minimize their self-confessed sadism. The policies of the Assyrian kings are established, differentiated as traditional or individual, and evaluated with praise or blame as they seemed to the author of these chapters to deserve. With a notable freshness of style and treatment Mr. Smith has breathed historical life and meaning into the brutal chronicles of the Assyrian rulers.

Mr. D. G. Hogarth has covered the later Hittite civilization and the relations of Lydia and Ionia most completely, in three chapters (VI-VII, XXI). Professor A. H. Sayce has reverted to one of his earliest subjects of interest, the Vannic Kingdom, in a brief chapter which recalls his study (1882) of the Vannic inscriptions. Mr. Ellis H. Minns has put together the recent information on the "Scythians and Northern Nomads" (ch. IX). His selection for the task, suggested by his own monumental work upon the *Greeks and Scythians,* is amply justified by his work. He emphasizes the fact that nomadism is a question of economic environment, not a matter of race; that it is not a primitive system of life; and that the range of nomad wanderings is, under normal circumstances, strictly limited by a definite setting of economic facts (p. 190 *et seq.*). Mr. R. Campbell Thompson's two chapters on the Neo-Babylonian Empire and its influence are outstanding in this volume, together with the work of Mr. Sidney Smith, by virtue of freshness of treatment and of style (see, for example, the closing paragraph of ch. XI). These two chapters are admirably done.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The remaining fifteen chapters of the volume display the same wide grasp of innumerable details which has characterized the two first volumes of the series. The work is meticulous, careful, trying scholarship. Mr. H. R. Hall, who was responsible for Egyptian history in the period of the great tribal movements in volume II, has been assigned the task of following, in this volume, the fortunes of that power in the time of its "impotency and degeneration" under Libyan, Æthiopian and Assyrian rulers and during the restoration and the beginning of Persian rule (chs. XII-XIV). He closes the task assigned him for this volume with a sympathetic and understanding evaluation of the archaizing fashion in Egyptian art during the restoration period (ch. XV), with its pedantic devotion to the artistic fashions of the Old Kingdom. The great, and fruitful, influence of this Egyptian archaizing style upon Greek art in its formative stages receives due attention at his hands.

Chapter XVI, on the "Topography of Jerusalem," written by Professor R. A. Stewart Macalister of University College, Dublin, impresses this reader as out of proportion in the economy of the series. This is an editorial problem, however, for which Professor Macalister is not responsible. Mr. Stanley A. Cook in four chapters (XVII-XX) follows the history of Judah and Israel and their unique religious development to the time of the Persian rule and the completed conception of Yahweh as the sole and universal god, whose special servant is Israel (p. 489).

The five final chapters of volume III deal with general problems of the early development of the Greek tribal states after the Homeric period. Mr. H. T. Wade-Gery of Oxford has covered, with careful and sound judgments, the difficult and broken sources on the early Dorian states, Argos, Corinth, Megara, Sparta and others of lesser importance (ch. XXII). Pheidon of Argos he places in the first half of the seventh century (p. 545 and p. 761). Lycurgus is a traditional hero, not an historical personality and not a god, who became the protector of the reformed organization of the Spartan state (p. 562, note 2). These decisions of Mr. Wade-Gery are characteristic of his sane approach. He has put together difficult materials with marked historical skill. Professor E. A. Gardner has written the chapter on early Athens (ch. XXIII). Mr. M. Cary has done the early history of the states of Northern and Central Greece. The early Greek colonization has fallen to Professor John L. Myres of Oxford; and the volume closes with a chapter on the origin and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nature of the Greek city-state by Professor F. E. Adcock of Cam bridge (ch. XXVI).

Only in a comprehensive treatment, such as the *Cambridge Ancien History*, does one realize the amazing amount of the new materia which has been collected in the field of ancient history in the pas three decades. The use of this material has developed a new tech nique in historical composition. The historian of antiquity writin to-day must be able to master and make correct use of the materia remains furnished by the excavations as well as the written record which have been handed down. In reading the history of the year 1000 to 500 B. C. as covered in this volume, one has the impressio that the material objects are at least equal in importance to th written evidence from antiquity. One realizes, also, that the ne material has brought about in some respects a complete shifting o historical emphasis. A marked example of this is to be noted in thi third volume. Thirty years ago no respectable history of antiquit would have failed to have a complete chapter on the Phœnician In this volume they receive but scant attention, no more in fact tha the Philistines or the Arameans. Their essential work lay in th opening-up of the western seaboard of the Mediterranean throug their western trading posts, notably Carthage. It is in a late volume and in the Carthaginian sphere, no doubt, that the importanc of Phœnicia will be recognized.

The outstanding weakness that one feels in this, as in the tw preceding volumes of the Cambridge enterprise, lies in the failure t give to the economic life of antiquity its due measure of attentio This defect can no longer be explained as due to lack of materia because there is plenty of that. A notable example of this fault i to be found in the minimal attention given to the important Harra Census which receives the barest mention, in one sentence (p. 94) It is to be hoped that in the distribution of the work to the variou scholars for the succeeding volumes and the weighting of relativ importance of the topics to be discussed, the economic setting o ancient life will receive more generous attention.

WILLIAM LINN WESTERMANN.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Free Thought in the Social Sciences.* By J. A. HOBSON. New York, The Macmillan Company, 1926.—288 pp.

Mr. Hobson, in his *Free Thought and the Social Sciences,* has written a book chiefly about Economics. It is diluted and rendered palatable to the general reader by a running discussion of the values and trials of intellectual honesty and of the sins of classical economists, pro-Nordics and imperialists. It explains the services which Psychology may render by exposing both the ruses, more or less subterranean, whereby the minions of Mammon and of Caesar seek to tempt the scientists from the service of truth, and the subterfuges of scientists in seeking reasons to excuse themselves in apostacy. Psychological analysis, it is suggested, may detect the spoor of the cloven hoof of class-interest in a track which one had thought only to be trodden by the pilgrim feet of disinterested theorists. The book also contains briefer studies of politics, eugenics, and ethics, and of the fashion in which the hot blood of interest overrules the weak nerves of intellect in the formulation of theories in these fields. Mr. Hobson, as ever, is suggestive, and, as ever, having whetted our appetite with the *hors d'œuvres* of his ideas and encouraged us to consume the *poissons* of a preliminary treatment, leaves us, hungry, to provide our own *viandes* and chew over the thoughts for which he has stimulated an appetite.

In the economic field Mr. Hobson is occupied especially with an attack on the doctrine of marginal utility in the interest of a more realistic and what is frequently called "human" treatment, on the ground that the resolution of qualitative into quantitative differences is not an abstraction from, but a distortion of, economic experience. In, however, rightly pointing out that the abstract treatment of economics by the classical economists is explicable by the expediency of justifying the unlovely commercialism of the Industrial Revolution as part of the ways of God with man, Mr. Hobson perhaps does less than justice to the value of this abstract method in enabling us to see the wood of the economic system in place of the trees and tangled growth of business experience, and to the degree to which this abstractness of method was due to an academic detachment only too difficult for the modern social worker. It is the weakness of any logical theory of human conduct that it must speedily go beyond, and end by caricaturing, the facts. But Institutional Economics, while right in rejecting the crude psychology of the earlier economists, has still to show that it can produce another system which is intellectually

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

satisfying, and not a mere social study or historical narrative, without the use of those abstractions which are of the very nature of scientific treatment. To "humanise" is often to introduce precisely that anthropocentric and passionate bias which the author of the book deplores.

Mr. Hobson's treatment is marked by a resolve to combine the study of values with the sciences of economics and of politics. And despite his claim on page 223 that values are to be included in a scientific treatment because they are facts (presumably as actual opinions, not according to the degree of their worth), it is difficult to see how he can avoid so far "humanising" his treatment of the social sciences that they become not "sciences" but "humanities". Mr. Hobson deplored the tendency of proletarian economics to adopt a "soft" psychology in its idealization of the worker. But one may doubt whether his own endeavor to compass what men in fact do and what men might and should do (irrespective of whether they do it) does not involve a like biasing of our scientific treatment in the interests of "humanisation".

Mr. Hobson confesses to his difficulty; his words express his embarrassment as he endeavors to reconcile his moral prepossessions with his scientific professions. "A judicious use of terms" may, he says, overcome the difficulty of expressing under one word both what a man is after and what he ought to be after. "Welfare", the chosen Janus-faced word, "may stand as a rough serviceable expression of what social progress consists of." Clearly Mr. Hobson is in deep waters, and one wonders whether he or anyone else can succeed in combining in one science, as distinct from a philosophic "world-view", the study of the wishes, purposes and ideals of men which form the content and flesh of conduct, with the scientific study of method in economics and politics.

As Mr. Hobson remarks, "Economics is not an exact science." But if we are to regard such exactitude as it has attained as a hobby of economists who have fallen into the ancient errors of the mathematicians, if we are to decline in the name of philosophy to make abstractions for the sake of method and, in the name of psychology, are to turn politics and economics into a discursive study of the hundred and one instincts of man, we bid fair to tread that broad and alluring road paved with the skulls of sociologists, which leads to a science of things in general and the place where is kept the philosopher's stone. Rather than turn this way, it is perhaps better

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

austerely to renounce the term "science", and speak of "social studies", or of the philosophy of conduct.

One is not therefore surprised, however much one may be disappointed, that Mr. Hobson should come so near to stumbling on what is perhaps a principle of the first magnitude in the disinterested and scientific treatment of politics, and yet, just because it is a principle of method and not an ideal, fail to point out its significance. "We give thanks," says Francis Bacon, "to Nicholas Machiavelli in that he shewed not what men ought to do but what they do." But Mr. Hobson, after having repeatedly pointed out the important part played in politics by the love of power or control, makes its rôle that of villain, and turns aside to condemn the very methodological principle which he has to his hand as a vice tempting politics from the straight path of virtue in liberal reasoning. Politics, one notes, is not given any definition which is susceptible of scientific treatment, but is a practical study of fortuitous details and governmental stage-properties, of "various devices, elective and otherwise", of forms of self-government, "a comparative study of constitutions", and a ragoût of such-like *disjecta membra* of civil administration.

Mr. Hobson, who admits that desire for power or "self-assertion is everywhere an operative, often a dominant, motive in politics," who pins his hopes of the survival of disinherited knowledge to the sense of power which knowledge brings, thereby pointing out a possible methodological clue for a scientific treatment of the entire political field, within ten lines has disappointed us by turning away to speak of "the legitimate aim of politics, the development of and working of socially serviceable forms of government," which "is deflected by these selfish thrusts of the will-to-power finding satisfaction in the forcible subjection of the will of others."

In short we find ourselves concerned, not with "Free Thought in the Social Sciences", but with intellectual honesty in social studies. The main fact of the political process is thrust aside as an extrinsic and intruding vice, and the field of Politics is defined as though it were the technology of government. It may be questioned whether it is not a mistake thus to think, as does Mr. Hobson, that Politics (the science of which he declines to distinguish from the art) should be a technique which should keep itself unspotted from this world in which the will-to-power has played so large a part that it has colored our entire terminology, instead of a study of how men in fact behave in the political field, and of the method observable in their capers when stimulated by the desire for power. It is an excellent

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

task to concern oneself with building the City of God, but it requires first a knowledge of engineering, and a knowledge of engineering and the planning of the City of God are not the same thing.

Mr. Hobson writes this book to insist that psycho-analysis be applied to scientific writings to detect the interest of the writer. It is one of the great changes of thought of this age that we suspect theories which claim to be impregnable and fundamental, of being merely theories which it is comfortable to live with, and ask not so much what a man logically thinks as why psychologically he thinks it, and how historically he has come to think it. It may be that such a psycho-analysis would reveal in Mr. Hobson's writings, not the hand of the dispassionate scientist or amoral student of scientific method and of the *verità effettuale della cosa,* but a warm lover of humanity, an ardent fighter on the side of the lesser battalions, and a champion of freedom of thought—which is not quite the same thing as scientific thought.

G. E. G. CATLIN

CORNELL UNIVERSITY

*German Colonization Past and Future—The Truth about the German Colonies.* By HEINRICH SCHNEE. With an Introduction by William Harbutt Dawson. London, Allen and Unwin, 1926.—176 pp., 24 illustrations.

Many German publications have discussed the colonial settlement of the Treaty of Versailles but they have not won the endorsement of an Englishman. This book, therefore, attracts unusual attention and offers two reasons to justify the subtitle: its author, a former Governor of German Samoa and East Africa and the editor of the *Deutsches Kolonial-Lexikon* (3 vols., Leipzig, 1920), combines a long and successful record as a colonial administrator with sound scholarship; and its sponsor is well known to the English-speaking public through his works on the German Empire as an impartial authority on that country.

The Introduction defines the purpose of writing: "to show wherein Germany's reputation and success as a colonial power have been unjustly called in question, and to give reasons why the return to her of her colonies is an act both of duty and of necessity" (p. 10). Mr. Dawson, convinced that the author has a "good case," devotes forty-six pages to supporting it so far as his own country is concerned, in an admirable spirit of fair-mindedness. He thinks that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

England should vindicate her honor which, he says, she compromised both by seizing the German territories in violation of her pledge repudiating any annexation; and by defending that annexation with a moral pretext of assuming a "sacred trust of civilization" which, she claimed, Germany was unfit to administer. He condemns the moral pretext as flimsy and unworthy and the charges against German administration as war propaganda, a mixture of true and false statements designed to create a wholly unjustified impression upon the public mind. Less idealistic is his second reason for advocating the return of, at least, most of the German colonies: an economic expediency which effects national and international interest. He shows the instability of the present inequable status of overseas territories and deplores the shortsighted policy of those peacemakers who sought to repress Germany by depriving her of colonial outlets, "a foolish and fatal delusion from which there will one day be a rude awakening" (p. 36). And it is from the disastrous results of that awakening, as he sees them, that Mr. Dawson seeks to protect the world by concluding with an earnest plea to his countrymen for a voluntary adjustment of colonial difficulties, leading ultimately, perhaps, to an International Trust; a plea calculated to lend great weight to the ensuing narrative of Dr. Schnee which he endorses as a whole if not in every detail (p. 13).

The book itself, a translation of material already published in Germany, first meticulously traces the steps by which the Allies seized the German colonies in violation of the fifth point of the Fourteen Points, which called for "a free, open-minded and absolutely impartial adjustment of all colonial claims, etc." Doubtless, the narrative does not escape mistakes, since the sources of all the proceedings relating to the Treaty are still incomplete; nevertheless, with the facts now in hand, it sets forth convincingly why Germany considers herself a victim of insincerity on the part of the Allies. And the author makes this insincerity especially striking when he shows how the Allies were prevented from squaring the colonial settlement with the fifth point and their alleged principle of self-determination by their secret treaties already in force. Dr. Schnee, therefore, sees little but annexation in the mandate system—a view which would seem to have been recently confirmed by the British Colonial Secretary when he announced that Great Britain regarded the Tanganyika Territory as a permanent acquisition and not as a temporary lease under the League of Nations.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Throughout the following chapters, the author undertakes to demolish the "myth of German colonial guilt." Point by point, he refutes the several charges brought by the Allies against German colonial administration, such as militarization, slavery and cruelty, by describing the exact official policy in regard to each charge of ill-treatment of natives; by quoting well-documented commendations of Germany's rule made by her present accusers before the war; and by briefly comparing German and mandate government. Here, Dr. Schnee is on exceedingly firm ground, as anyone who verifies his statements in the official colonial records and in the reports of the Permanent Mandates Commission will agree; indeed, he leaves little doubt that in many instances, notably in the charge of militarization, German treatment of the natives has been unjustly indicted (chap. iii).

On the other hand, however, he weakens his position by citing so many examples of the mistakes and cruelties of other colonizing powers, such as Great Britain in Kenya, France in the Cameroons, Belgium in the Congo. To be sure, his motive is not, as he states, to make capital out of others' faults, but rather to prove that the older and more experienced countries have been and are guilty of the same maladministration of which they accuse Germany, a new nation, whose mistakes were chiefly committed during the early and experimental years of her colonial record. Nevertheless, one feels that these chapters would have been stronger had the author developed with the same thoroughness and detail the affirmative aspect of German administration instead of the negative. For there is much to be said about Germany's work in the colonies: her educational system, her economic development, her campaigns against disease and her medical service. Indeed, it is a disappointment to find all this constructive material, which would seem to be implied in the book's title, confined to scarcely nine pages (pp. 143-154) and to the illustrations. After all, to match atrocities and to try to prove the devotion of natives (chap. viii) is apt to prove both unprofitable and dangerous, for it may easily incur the charge of special pleading.

MARY E. TOWNSEND

TEACHERS COLLEGE
COLUMBIA UNIVERSITY

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Latin America and the War.* By PERCY ALVIN MARTIN. The Albert Shaw Lectures on Diplomatic History, 1921. Baltimore, The Johns Hopkins Press, 1925.—xii, 582 pp.

This is one of the most important works that has appeared in the field of Latin-American diplomacy for some time. It presents "a somewhat detailed analysis of the diplomatic relations of the Latin-American republics as affected by the Great War. To an introductory chapter has been assigned a brief appraisal of the factors which determined the attitude of these nations to the war and its issues. Succeeding chapters treat of the diplomatic activities of each of these nations during the war years. In the conclusion are indicated some of the outstanding post-war developments . . ." (Preface).

In turning the pages of the volume, one is soon brought to the realization that a new group of nations has come upon the world stage. Peoples who for four centuries have remained passive—with the exception of the movement for independence and the insignificant participation at the Hague in 1907—are observed in an active rôle. Of the twenty Latin-American republics, eight eventually declared war against the Central Powers, five severed relations with Germany without resorting to hostilities, and seven remained neutral. While only eleven of them were represented at the Peace Conference, seventeen are now members of the League of Nations, in which organization they are taking an ardent part.

The care and industry with which Professor Martin has assembled his sources will call forth sincere admiration. That a definitive work on the war diplomacy of the Latin-American states should be written during the same decade in which the great war occurred hardly seems possible, and yet it appears improbable that the broad outlines of the story will have to undergo subsequent modification. The nations concerned have published official documents with unprecedented liberality, and a fairly adequate survey of the press has been made. Perhaps a little more attention will have to be given to the propaganda of the United States and its Allies in the great struggle. Perhaps the author will also feel inclined in a few years to modify the very severe attitude which he has assumed toward Germany throughout, for it appears that he has made too frequent use of the terms "insidious", "ruthless", "unparalleled effrontery", and has been somewhat hasty in the acceptance of the war-time stories of Germany's designs in America.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The first and last chapters of the volume are, in the opinion of the present reviewer, the most valuable and at the same time the most defective. In the introductory chapter, paragraphs three to five appear to find no logical place. They clearly belong in the preface. The remainder of the chapter should give a more detailed account of the historical rivalry of the Great Powers for the trade, investment opportunities, and cultural leadership of Latin America. It would seem that no important element in the international contest has been omitted, but the scanty treatment accorded each of them is hardly adequate to give a vivid impression of what had been going on south of the Rio Grande for a half-century prior to the outbreak of the war. In the otherwise excellent concluding chapter the reader is somewhat confused by the failure of the author to distinguish between war years and post-war years in his discussion of the influence of the war and its aftermath upon inter-American relations. The idealism injected into the struggle mainly by the preachments of Wilson and the Pan-American policy announced and followed by the Washington Government resulted in a marked improvement in the relationship of the American nations, by the opening of the year 1919. Insistence upon writing the Monroe Doctrine into the League of Nations, failure to join the League, the defeat of the Wilson party in the national elections of 1920, the tremendous increase of the economic power of the United States—these and other factors tended to nullify the good impression made by the Wilson policy. Evidence of this latter fact is seen on every hand. The most impressive illustration took place at the Santiago Conference of 1923. Further proof may be found in the programs of the projected Panama Congress (1926) and the topics proposed for discussion in the Congress of Jurists which is to be held at Rio in the near future. The Latin Americans have lost faith in our benevolence and idealism.

In matters of style and technique one finds little to criticize. There is no bibliography, but the footnote citations appear to contain all the data needed. A map and a more extensive index would add to the usefulness of the book. There are strikingly few misprints for a volume of this size. On the whole, Professor Martin has done an excellent piece of work and has not fallen below the high standard maintained by previous lecturers on the Shaw Foundation.

J. FRED RIPPY

UNIVERSITY OF CHICAGO

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Saturated Civilization.* By SIGMUND MENDELSOHN. New York, The Macmillan Company, 1926.—xix, 180 pp.

Mendelsohn is Karl Marx turned Mussolini. "Saturation" means that wage-earners have accomplished Marx's dictatorship and their desaturation will be Fascism. "Past and present examples lend support to the theory that only debased and impotent labor can be used as an effective instrument of intensive material progress, and that exertion and submissiveness, which are essential qualities of labor efficiency, cannot be enforced on enlightened and humanized labor. The indisputable historical fact stands out that the material achievements of past civilizations until the dawn of the twentieth century, including the remarkable industrial progress of the nineteenth century, were the products of debased labor, whether actually in bond or nominally free, and it would seem a reasonable conclusion that humanized labor, greatly as it enhances social progress, is not conducive to continued material progress. Contrary to the prevailing opinion, degraded labor was not the product of industrial civilization, but reversely industrial civilization was the product of degraded labor. Only in a state of complete helplessness could labor have been driven to such inhuman exertion and be resigned to the animal existence which characterized it during the greater part of the nineteenth century. On the other hand, labor has in recent times conclusively demonstrated that with each stage of further elevation its efficiency becomes more impaired and its supply more depleted" (p. 104).

"Modern social progress has covered the entire field of political and social possibilities for human progress. . . . The elevation of labor stands out as the pre-eminent feature, and here also the agencies of social progress have reached their limit, and any further advance that labor may make economically or otherwise will not be in the cause of social progress but will be the result of the power of labor to promote its own interest" (p. 179). "Overloading society with reforms may prove as detrimental as indifference to them" (p. 177). Consequently, "Mussolini, the self-appointed dictator, is hailed as the deliverer not only in his own country, but in foreign lands" (p 176).

Mendelsohn does not commit himself exactly to the "rule of absolutism" (p. 176) but he concludes that "like all intense manifestations, this powerful movement" towards a "better world" and a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

"better man, woman and child," is also "producing reactionary forces, and for the time being is approaching the limit of possibility and the point of saturation. Only those achievements will permanently survive that conform with the tendencies and fit the conditions of coming generations" (p. 180).

This conclusion is doubtless a correct platitude, but Mendelsohn's meaning is to be found elsewhere, especially in his frequent references to Napoleon under whose firm dictatorship the eighteenth-century shibboleth of "*Liberté, Égalité, Fraternité*," ending in the French Revolution, "lost its inspiring force" and the world settled down to the marvelous materialistic progress of the nineteenth century, based on the "biological inequality" which had been overlooked (pp. 1, 22, 38, 42, 129). We have now reached a similar saturation point, and the world has been fed up on another humanitarianism, so that Fascism will do for the twentieth century what Napoleonism did for the nineteenth century.

Mendelsohn supports his saturation analogy by a statistical analogy of "cycles" and "trends". The "cycles" are "mental peculiarities" that distinguish different ages, such as Antiquity, Medievalism, Renaissance, the Nineteenth Century, the Twentieth Century. But the "trend" is "mental achievement," which turns out to be Karl Marx's social labor-power accumulating its control over nature from primitive tools to modern wireless. The "mental peculiarities" have no enduring force and are not transmissible to posterity. But the mental "achievements" form "permanent contributions" and Babylon, Greece, Rome, as well as the Nineteenth Century, are continuing their life in the art, literature, science and material civilization of the twentieth century (p. 4 *et seq.*). Now it is these mental "peculiarities" that get saturated, but the mental "achievements" keep right on. Who should worry? Hegel and Marx are both right!

There is a hypnotism for both the disillusioned and the Fascisti, as there was for Hegel and Marx, in these cosmic cycles and trends. They reveal impartially the inevitableness of either the dictatorship of capitalism or the dictatorship of the proletariat—as you choose. It is now the turn for capitalism, as it was following the French Revolution. The similar cycle has always happened and will happen. If only you had known the cosmic law of action and reaction, advance and recession, surfeit and subsidence, saturation and desaturation, democracy and dictatorship, humanitarianism and materialism, then you would have seen that there was just nothing you could do about it. So, be wise, get what you can, for when the cycle

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

comes around you will be gone. Now is the time to suppress humanitarianism and get down to business.

Mendelsohn's authorities seem to be the National Industrial Conference Board, certain figures from the U. S. Bureau of Labor and the statistical abstracts, Buckle's *History of Civilization* and Spencer's *Principles of Sociology*. I do not see any reference to Florence's *Fatigue and Efficiency*, Chase's *Waste in Industry*, Douglas's wage computations, or the like, and I do not see any evidence that he has worked in a steel mill or a clothing factory, or that he has come up against an injunction or a Supreme Court, or an employers' association, or that he has tried to organize a union or a farmers' cooperative, or conduct a workers' "college", though it is possible he may have done so, like Mussolini. He writes as though he had paid several plumbers' bills.

I believe that I could have made his case stronger than he has himself made it, by a wider appeal to selective statistics, for he does not seem to have noted the plight of unorganized farmers in contrast to organized wage-earners, although his is, in effect, an appeal to farmers, as well as "intellectuals", to suppress the urban workers.

JOHN R. COMMONS

UNIVERSITY OF WISCONSIN

*Humanism and Tyranny: Studies in the Italian Trecento.* By EPHRAIM EMERTON. Cambridge, Harvard University Press, 1925. —x, 377 pp.

In the volume before us for review Professor Emerton takes us back into the days of the fourteenth century. Its conditions and thought are presented to us partly in the words of contemporaries, partly through Professor Emerton's comment and interpretation. But the chief purpose and service of the book is the presentation to English readers, for the first time in translation, of the treatises of Bartolus of Sassoferrato, the great legal light of the fourteenth century, on tyranny and on the Guelphs and Ghibellines; the treatise of Coluccio Salutati, secretary of the Florentine republic and half-scholastic, half-humanist, on tyranny, and his letters in defence of liberal studies; the account of an actual tyrant of the period, Francesco degli Ordelaffi, in extracts taken from the anonymous fourteenth century life of Cola di Rienzo; and selections from the ordinances of Cardinal Albornoz for the government of the papal states, which were promulgated in 1357. To each of these translations

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Professor Emerton has prefixed explanatory and exegetical introductions of considerable length.

All but one of the translations deal with political theory or conditions, and it would perhaps have been better in the interests of unity to omit the single chapter which justifies the inclusion of the word "Humanism" in the title, where that word has rather oddly been given the first place. In point of fact, the chief relation between humanism and tyranny seems to have been the increasing tendency, on the one hand, of the Italian humanists and their emulators beyond the Alps to apologize for absolute government or at least to defend monarchy and to curry favor with the despots, and the corresponding tendency, on the other hand, of despots and absolute monarchs to patronize the humanists rather than the schoolmen, who displayed too much intellectual and corporate independence or too much attachment to old conditions, customs, and institutions, and a leaning towards popular sovereignty. The assertion, therefore, which appears upon the jacket of the book under review to the effect that, "As far back as the fourteenth century it is possible to trace the struggle between tyranny and humanism, between the principle of authority developed to its highest point in the institutions of the Middle Ages" (for instance, feudalism with its contract theory, the communes, urban or rural, the gilds and brotherhoods, the universities, particularly those where control was in the hands of the student body!) "and the working of the free spirit of man that finds its complete expression in the enlightened modern state" (consider the local government of France and Italy today!)—this assertion is one which finds little support in the book itself and still less basis in historic fact. It is Salutati, the scholastic humanist of the fourteenth century, whom we hear in Professor Emerton's translation affirming that Caesar was not a tyrant, whereas John of Salisbury, the humanistic schoolman of the twelfth century, had affirmed that he was. In the sturdy accents of Bartolus we may indeed detect a struggle against tyranny, but Bartolus was no humanist. His barbarous Latin was the butt and byword of every proper humanist from Lorenzo Valla on. But for insight into practical politics the following sentences from Professor Emerton's translation deserve quotation. "For this reason we must take into account that, just as an individual is seldom found who is free from all bodily defect, so it is a rare thing to find a government which is wholly devoted to the common good without any admixture of tyranny." And, a few lines further on, Bartolus adds, "A third form of concealment is when one allows no

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

title to be given him in the city but so manages all its affairs that everything goes according to his will." Cosimo de' Medici in the next century evidently was practicing an art that had long been familiar to medieval politicians. Nor were the writings of the fourteenth century which Professor Emerton has translated for us without an occasional Macchiavellian touch, as when Salutati says that "Those who treat events with the art of the poet are wont to praise or blame men and their deeds according to the success of their undertakings" (p. 114) and that "a successful and fortunate crime passes for a virtuous deed" (p. 92).

With Professor Emerton's interpretation of the fourteenth century and the preceding medieval period I find myself considerably at variance, and particularly with the following assertions which occur between pages 26 and 30. I do not "think naturally first of Dante" when I hear the word "humanist". I do not regard Petrarch as "'the first modern man', an individual who actually does his own thinking over a wide range of topics." It seems rather silly to me to attempt to single out anyone as "the first modern man"—as if there were a distinct species of *homo modernus* like *Pithecanthropus erectus*—although, now that practically no one any longer takes any interest in Latin and Greek, whereas the veriest moron may pride himself upon being modern, I recognize the superior popular appeal which that designation has, compared to that of having been a classical scholar or dilettante. Study of medieval science and superstition has been far from convincing me that "Prescription, not investigation, was the watchword of educational method, and the result was obvious"; that "Curiosity about the heathen writers was a signal of danger that gave prompt warning and was followed by strict repression"; or that in the fourteenth century "Men were working themselves free from the ancient trammels of superstitious dread (is the word "trammels" never used in any other context than this too familiar one?) and striking out into ever widening paths of inquiry and discovery"; and that "Even the clerical profession was beginning to be felt as not incompatible with a liberal culture." Such statements seem misleading, although the last is a welcome relief from the usual generalization that the clergy were the only learned class in the middle ages.

The treatise of Salutati *De tyranno* seems rather sophistical, and his historical criticism shows little or no advance on medieval standards. The anonymous account of the tyrant of Forli sounds exaggerated, sensational, and unreliable, although it certainly makes racy

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

reading. For example: "For thirty years he had been excommunicate and his lands had been under an interdict without the reading of a mass." But a few lines later we read that he "forced the clergy to celebrate mass, the greater part of them doing as they were ordered in spite of the interdict. Fourteen clerics, seven monks and seven seculars, received the sacred honor of martyrdom. Seven of them were hanged by the neck and flayed. He was absolutely devoted to the people of Forli and dearly beloved by them" (pp. 168-169).

Useful bibliographies appear at the head of certain chapters. To that on page 197 might possibly be added Mercurio Antonelli's article, "Il cardinale Albornoz e il governo di Roma nel 1354," in the *Archivio della R. Società Romana di Storia Patria,* 1916. The book lacks an index and seems rather high-priced at $4.00. Inasmuch as I complimented The Harvard University Press on the appearance of another of its publications in a recent review elsewhere, I may perhaps be allowed to express dissatisfaction with such glaring misprints as "beacking" for "be lacking" on page 92, and "BARTLOUS" for "BARTOLUS" in the page-head on page 129. But let us conclude by thanking Professor Emerton for making available to the English reader these selections from the writing of the Italian *trecento,* and especially for the two treatises of Bartolus.

LYNN THORNDIKE

*The Political Awakening of the East.* By GEORGE MATTHEW DUTCHER. New York, The Abingdon Press, 1925.—372 pp.

Professor Dutcher shows a genuine insight into the problems of Asia. It is advisable to read first his last chapter on "Problems of Progress" in order to understand what he says about the profound results of the impact of the machine civilizations of the West on Japan, China, India, Egypt and the Philippines. In it he sums up the contents of many recent articles on this subject, while giving the conclusions of his mature thought.

The relations between Egypt and the British Empire are so strained that some pessimists believe that a situation similar to that which confronts France in Syria may develop. After a brief survey of the causes which led to British control, the mistakes made since the beginning of the Great War are explained and compared with the intelligent administration which conferred such great benefits on the cultivators, who had for generations been oppressed by the ruling classes. The real difficulty is that the desires of the upper classes

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for complete self-determination are incompatible with the imperative necessity of protecting the "jugular vein of the British Empire" and the vital trade route to India and China. Egypt insists upon possessing the dams in the Sudan which impound the flood waters of the Nile, while Britain needs them to irrigate the fields which grow the cotton required to liberate England from its dependence upon the United States. This is a clear case of head-on collision between human emotions and aspirations and economic necessities. It well illustrates the underlying cause of much of the existing friction between the dominant races of Europe and America and those who inhabit lands with undeveloped agricultural and mineral resources.

A similar case is that of the Philippines, where the problem of to-day is the desire of the more intelligent Filipinos to have their vast, unused and fertile lands covered with profitable plantations of rubber, sugar, tobacco and coconuts. They do not have the required capital and are afraid to permit Americans to invest their money, because they fear that "big business" would be able to persuade Congress to refuse independence to the islands. Capitalists are not convinced that there would be safety for life and property without the protection of the American flag, and all parties agree that the consequent deadlock is most disastrous to the welfare of the masses. The varying American policies since the acquisition of the islands are critically, though fairly, discussed, with due credit for the achievements of both Filipinos and Americans. Some readers may feel that the author has not adequately discussed the failures of the Filipinos in finance, justice, education and other fields under the almost complete autonomy which they enjoyed during Governor General Harrison's administration. The treatment of the various plans proposed for the future government of the Philippines, and of the interests of the United States and of other countries is admirable. This chapter is among the best published statements of the whole problem.

The complaints of the Indian agitators against British control are explained with impartiality, and in a few pages the history of British rule and present policies are adequately covered. Considerable space is devoted to the nationalistic movement under Gandhi, but curiously enough, the economic side of this threat to British sovereignty and Mr. Gandhi's startling recantation of his fundamental principles seem to have been overlooked. The description of Indian conditions and of the difficulties which confront those who wish to make India

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

into a Dominion like Canada is so excellent that one regrets that more space could not have been devoted to that country. It is interesting to note that the author is convinced that the solution of the problem in India, as in the Philippines, is progressive self-government under the existing system, and not complete independence.

The difficult subject of China is treated as well as the allotted space permits. The salient historical facts are skilfully sketched, but the economic situation is not well understood, as is evidenced by the statement that economic prosperity has been maintained since 1911, while the fact is that the incessant civil wars and oppressive misgovernment have rendered the condition of the merchants and masses almost unendurable. The author is extremely optimistic and often does not realize that the situation is rapidly getting worse, and that even the best friends of the Chinese can offer few evidences of constructive achievement. He is quite right when he states that China can rid itself of the bandits and military dictators as soon as the Chinese develop the necessary social consciousness and sense of civic duty, but both are conspicuous by their absence except among limited groups which have been under Occidental influences. This chapter is the least satisfactory.

In the account of the recent history of Japan an especially valuable feature is the discussion of the problem of the increasing population and the remedies of emigration, territorial acquisition in Asia and industrialization, following the example of England. Unfortunately little is said about the new policies of the Japanese Government since the Conference on the Limitation of Armament in 1922.

The book is uneven in quality, as is usually the case when so many extensive and controversial subjects are treated. The chief defect is the inadequate treatment of the dominating economic forces and of the points of view of the masses. Still, the reader will find the information which is necessary for an understanding of the daily cables from the Orient, and the excellent short bibliographies make it easy to seek further light on the Oriental problems which are even now competing in importance with those of Europe.

CHARLES C. BATCHELDER

NEW YORK UNIVERSITY
NEW YORK CITY

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*The Pioneers of the French Revolution.* By M. ROUSTAN. Translated by Frederic Whyte, with an Introduction by Harold J. Laski. Boston, Little, Brown and Company, 1926.—302 pp.

This book was first published in 1906 under the title *Les Philosophes et la société française au XVIII^e siècle.* It deals with the important orders or groups within French society, except the Church, which was reserved for separate treatment. The longest chapter describes the condition of the common people in town and country and explains what the philosopers proposed for their relief. The shortest chapter portrays, inadequately, it must be said, the position of the nobles. Royalty, the "Favourites", the magistrates, the financiers, the salons, and the bourgeoisie, each has a chapter. In a sense the book is controversial, as it attempts to show that the influence of the philosophers was the determining factor among the causes of the Revolution. The title of the English edition emphasizes this aspect. It is made plainer in the long introductory chapter directed against what the author thinks were the leading ideas expressed by Félix Rocquain in his *L'Esprit révolutionnaire avant la Révolution*, and renewed in the critical writings of Émile Faguet. Rocquain had sought to prove, among other things, that the revolutionary spirit had become dangerous before the influence of the philosophers was appreciable. The value of M. Roustan's book does not rest primarily upon the success of his demonstration. It embodies so careful an analysis of the opinions of the philosophers upon the institutions of their day that it has long been highly esteemed by students of the subject.

The Introductory Note is written by Harold J. Laski. It is a curious circumstance that the Introduction to the English version of Rocquain's book was contributed by Professor Huxley. He welcomed Rocquain's argument because it appeared to relieve the philosophers of the charge of being mere destroyers by showing that the Revolution was due to the internal rottenness of the old regime and not to artificial propaganda. Huxley remarked that the "speculative demonstrations of the Philosophers" would not have had much result except for the "just and profound griefs of at least 95 per cent of the population." Mr. Laski thinks that M. Roustan's greatest success has been in describing the triumph of the spirit of free inquiry, embodied in the philosophers, over the consolidated opposition of tradition, bigotry and privilege, although this spirit, when

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

once awakened, may have gone forward to conclusions which the philosophers never dreamed of or desired.

After all, the controversy about the exact rôle of the philosophers seems academic if not idle. The fundamental reason for the Revolution was "a condition and not a theory." And the two writers, Rocquain and Roustan, are not so far apart as might be inferred from M. Roustan's introduction. Rocquain's main contention was that the "house already tottered on its base" "when the philosophers came to set fire to it," and that they did "no more than unite in a Code of Doctrine the ideas that were fermenting in all minds." M. Roustan says much the same thing in his concluding chapter, while still affirming that the philosophers created the Revolution.

In the chapter on the "*Philosophes* and the People" the contention of the author is marred by a confusion in the use of the word "people". Sometimes it is the lower middle class of the towns that is referred to, sometimes the town proletariat or employees of various kinds, occasionally it is the rural population. Obviously it is easier to demonstrate the influence of writers upon any section of the middle class than it is in the case of the proletariat or the peasantry. Even in regard to the townsmen as a whole, Professor Lavisse raises the query whether the writers whose names belong to literature exercised as much influence over the "crowd" as did comparatively unknown scribblers, authors of innumerable *libelles* and *gazetins*. M. Roustan's method in the case of both town and rural population is not so much the citation of evidence as a series of alleged probabilities. Doubtless it would be a long and difficult task to learn from local evidence just the measure of the ideas which had filtered down through the levels of the so-called directing classes to that of the common people. Only in such a way, however, can the thesis be proved.

For the condition of the peasants the author contents himself with scanty indications, referring the reader to the fifth book of Taine's *Ancien Régime*, although Taine's method has been seriously questioned and the scientific basis of his conclusions denied. What he says himself illustrates the same practice of selecting *petits faits* supposedly significant, running up and down the century for illustrations, in spite of the fact that French society was not static.

The reader should be warned that this volume is not a full translation of the original, but is a reduction by about one-half through omissions and condensations. As a translation it is not free from defects, perhaps due to the fact that the translator was not suffi-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ciently acquainted with conditions in France in the eighteenth century. For example, on page 227 he distorts a quotation from the Encyclopedia by rendering "*laboureur*" by the English word "labourer". The translator on page 261 even goes so far as to render "*agriculteur*" as "rural labourer". There are other errors which suggest carelessness, as when "*sans que*" is translated on page 61 "except that," exactly reversing the author's meaning. In one case the translator makes ridiculous the irony of the author. The elder Mirabeau had proposed for Louis XV the ideal of a "*roi pasteur*," and M. Roustan remarks that the king "*avait d'autres soucis, le roi pasteur gagnait ce titre en améliorant le Parc aux Cerfs*," for which the translator gratuitously supplies the note, "The royal deer park."

HENRY E. BOURNE

WESTERN RESERVE UNIVERSITY

*Municipal Government in the United States.* By THOMAS HARRISON REED. New York, The Century Co., 1926.—vii, 378 pp.

*Documents Illustrative of American Municipal Government.* By THOMAS HARRISON REED and PAUL WEBBINK. New York, The Century Co., 1926.—xii, 609 pp.

These two volumes are well planned, carefully articulated, and form a notable addition to the literature of American city government. The first contains a broad and readable survey of our municipal system in its historical and governmental aspects, holding closely to the main theme and avoiding non-essential details. Although the plan of the volume does not depart widely from the paths mapped out by earlier writers, nevertheless the book has some novel features which give it distinction and a somewhat unique value.

One of these distinctive features is the amount of space devoted to the history of the American municipal system from earliest times to the present day. Four chapters, covering about one-fifth of the entire volume, are assigned to this topic. Political scientists of the sociological stripe will hasten to complain, no doubt, that this is out of all rational proportion, especially in a book designed for use by the American undergraduate, who is busy most of the time and tired the rest of it. He wants his knowledge fed to him in triturates. Edward Gibbon could consecrate five volumes to the fall of the Roman Empire and yet find readers in abundance; but nowadays, as Stephen Leacock says, the Roman Empire has got to do its falling

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in less than ten pages in order to get any attention from the incipient rotarians who frequent our colleges. Under these conditions it takes some courage to assign a whole chapter to the story of borough government in colonial times while giving only a couple of paragraphs to Tammany Hall.

But there is ample justification for Professor Reed's comprehensive historical introduction in the fact that it is well done. It is, in fact, the best thing of its sort that has been done by anybody. These four chapters constitute a real contribution to our knowledge of municipal evolution, for the discussion clears up a number of points that have hitherto been nebulous and sets right a good many errors which have had a wide vogue both in books and in classroom lectures. The author's discussion of the famous "federal analogy," and its influence upon the orthodox frame of American city government is an example. This whole matter is set in a new and clearer orientation. So with the development of the municipal system during the dark ages that followed the Civil War. The manifold kinks in the traditional story are straightened out. All in all, the first part of Professor Reed's volume is a good deal more than a textbook; it breaks into new ground.

Another strong feature of the book is its decidedly practical character. There is no tedious arguing about theories. Professor Reed is not an academician only. He has himself ruled a city, and his book discloses that he gained some knowledge of human idiosyncrasies in the process. At any rate it is refreshing to find an author who looks at the facts with his eyes, and not with his prejudices. Some of the shams in city government get rough handling in this book, while the things that really count are put into their right perspective. Especially good is the chapter on the city-manager form of government, a subject on which Professor Reed is qualified to write with authority, if anyone is.

In a volume of moderate dimensions no author can hope to cover all phases of municipal government. He must pick and choose. It is no valid criticism that his selections differ from those of some other man. Nevertheless it is somewhat surprising that Professor Reed has omitted from his book a general discussion of political parties, their organization, and their influence upon the government of the American city. This influence is undeniable, even in municipalities which profess to have non-partisan elections. The city committee is sometimes more influential than the city council, no matter what the charter may dictate. One may doubt the wisdom of dis-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

regarding the party organization as an integral factor in local administration, or treating it as something outside the established orbit of officialdom, or dealing with it in its sinister aspects only, as Professor Reed does in his chapter on "The Triumph of the Machine." Still, this is a matter on which there may be fair differences of opinion. A book should be judged by what it contains, not by what it omits.

The volume of illustrative documents, by Messrs. Reed and Webbink, forms a useful supplement. It contains much representative material, of a character quite out of the ordinary, and covering a wide range. The range is somewhat wider, in fact, than the title of the book implies, for it includes illustrative data on the government of some foreign cities, notably London and Berlin. The authors have had remarkable success in avoiding any duplication of the materials contained in other books of the same general type. The teacher of municipal government has now no lack of textbooks or of supplementary reading for his students. No other field of political science is at present so abundantly supplied.

WILLIAM BENNETT MUNRO

HARVARD UNIVERSITY

*The Permanent Court of International Justice, its Constitution, Procedure and Work.* By ALEXANDER P. FACHIRI. New York, Oxford University Press, American Branch, 1925.—vi, 342 pp.

This is one of the best books which have yet appeared on the Permanent Court. It is a scholarly piece of work, painstakingly written, though without any great pretense to literary merit. There are 225 compact pages of text, and a hundred more pages of documents, the latter including the Covenant of the League, the preparatory documents relating to the establishment of the Court, the Statute and Rules of the Court, and others—a valuable collection for handy reference. All statements are supported by page references to official documents, and by cross references to other portions of the book.

A touch of regret at the failure of the attempt to establish compulsory jurisdiction characterizes the discussion of the creation of the court. The author, however, clings to the conventional view of sovereignty and denies that it is technically possible to have compulsory jurisdiction over sovereign states. After which he begs the question in the usual style by admitting that compulsory jurisdiction is compulsory if only it has been agreed to! As a matter of fact, a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

surprising degree of compulsory jurisdiction is revealed by his discussion. Members of the League must submit their quarrels to arbitration, or to the Court, or to the Council. In the last case, the Council may ask the Court for an advisory opinion upon the matter, and thus bring before the Court a question which one of the parties had refused to submit to it—e. g., the case of the Tunis Nationality Decrees. Under the Peace Treaties many matters must be submitted to the Court, as, for example, the case of the *Wimbledon;* and the mandates and many bilateral treaties require the action of the Court. All these treaties, with their relevant articles, are carefully listed to date by the author. The Court, however, if one is to judge by the Eastern Carelian case, is not willing to go so far in assuming jurisdiction over non-members as does the Covenant of the League.

American opponents of the League will find little ammunition here. Mr. Fachiri is convinced that in advisory opinions may be found "one of the most fertile opportunities for extending the Court's field of activity and usefulness." He does not regard advisory opinions as *dicta* and believes that they will contribute as much to the development of international law as do judgments of the Court. Nor does he consider the Court an instrument of the League of Nations, though he points out that the sanctions provided by the Covenant would in most cases serve as sanctions for a judgment of the Court, since the signatories of both are largely the same. Except for the process of election, he believes that the Court could exist if the League were to die. It may be suggested that another exception should be made for the finances of the Court; but both are incidental, and could easily be replaced were there no League.

The author is reflective as well as factual, and is often suggestive. He points out that, because of the qualifications set, it is impossible for a politician to be chosen as a judge. As to national judges, he remarks that "it is not sufficient that justice should be done, it must also appear to have been done." He observes that it is unnecessary for those who sign the optional clause to make reservations conditioning reciprocity, since this principle is stated in the clause itself. He calls attention to the compromise between Continental and Anglo-Saxon methods embodied in the provision that the decision shall be the decision of the whole Court, even though dissenting opinions may be recorded. The reviewer notes the omission of any information on the questions which agitated the Conference of Signatories as they puzzled over the meaning of the fifth reservation

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

made by the United States Senate—whether an advisory opinion may be asked for by a majority of the Council. He suggests also that it would be helpful to explain more fully the functions of the technical assessors.

Sufficient instruction as to the procedure of the Court is given for the lawyer; and a concise summary of the cases thus far heard (through the Interpretation of the Treaty of Neuilly). On the whole, it is a very practical handbook to the Court, of great value to students of international affairs.

CLYDE EAGLETON

NEW YORK UNIVERSITY

*The New Leadership in Industry.* By SAM A. LEWISOHN. New York, E. P. Dutton and Company, 1926.—x, 234 pp.

This book will make for more thorough-going attention and a nearer approach to detached scientific attitude toward labor problems in American industry. It presents in a clear, readable way the philosophy of one industrial executive who is both liberal and hard-headed—just the kind of executive (or other person) who has the most to contribute to an understanding of labor problems and from whom one is less likely to hear. Mr. Lewisohn says: "What I have aimed to do in this volume is to suggest some new points of emphasis in the labor problem. I have not attempted an exhaustive or even a symmetrical discussion of any one phase of the subject. This I must leave to those who can devote more intensive study to its various aspects. The first essential in considering any problem, particularly in our complex modern life, is to throw things into their proper perspective. . . . The type of program outlined may not go as far as some advanced thinkers would like. But it means progress in the right direction. The great problem in this country is not so much to bring about refinement in human organization methods as to bring about a 'substantial alignment' of industrialists using the improved methods already developed. In other words, the problem is to bring up the laggards and to establish a good average practice.

"The discussion in this book has been based on the assumption that, for the next few decades at least, there will be no radical change of the capitalist system in this country. Upon this premise, improvement towards an attainable goal in the relations between employers and employees must be worked out by successive steps, in an intensive manner. Upon the progressiveness of the employing

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

classes, primarily, such an orderly solution of our industrial labor problem depends.

"From one point of view, the factory is the melting-pot of the nation. The adoption of the right methods of conducting industry and the tactful and effective supervision of employees will make the workers appreciate the importance of brains and leadership in our industrial structure. This will mean more for national stability than any artificial propaganda. There is as much opportunity for statesmanship in the industrial field as there is in the political field" (pp. vii, 228-229).

This book is written chiefly for the owners and managers of industry. No employer, or other person for that matter, can read *The New Leadership in Industry* without being moved consciously or unconsciously to participate in that competition for higher standards of leadership for which Mr. Lewisohn stands and to discourage that pressure for suppressive autocratic policies which is likely to obtain where conservative employers allow labor problems to become the "football of their emotions." Moreover, the reader is refreshed more and more as he goes deeper into the book by the absence of emphasis on the mechanics of industrial relations, which in most books on the subject are likely to be stressed out of all proportion to their importance.

In such a book as this, which undertakes to state frankly and courageously the opinions of one man on a controversial subject, every reader will find points of difference of a major or minor character. Extremists in social philosophy whether in revolutionary or reactionary groups will not subscribe. A teacher in a business school could wish that while deploring the lack of attention to industrial relations management in engineering school curricula, Mr. Lewisohn had recognized that some progress is being made along such lines in many business schools. But these are not criticisms of the basic theme of the book which is to be judged by the end it sought to accomplish and its success in attaining that end. From this standpoint, Mr. Lewisohn has made a distinct personal contribution to our thinking—and education—in this field.

JOSEPH H. WILLITS

UNIVERSITY OF PENNSYLVANIA

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Population Problems in the United States and Canada.* Edited by LOUIS I. DUBLIN. Publications of the Pollak Foundation for Economic Research. Boston, Houghton Mifflin Company, 1926.—xi, 318 pp.

The nineteen chapters which make up the contents of this timely, interesting, and valuable volume are the outgrowth of a symposium on population problems at the annual meeting of the American Statistical Association in 1924. Each paper was prepared by a specialist in the field, the editor being of the opinion that a volume of this character has definite advantages over a treatise emanating from the pen of a single author, partly because it carries the weight of authority and the freshness of varied opinion and point of view and partly because no individual could write a completely rounded work on population in the United States. If the editor's judgment is sound—and we believe it is—it follows that the task of the reviewer in dealing single-handed with the technical and detailed papers is exceedingly difficult. He must follow the example of most of the contributors and tread warily in order to avoid the pitfalls of dogmatism.

Notwithstanding the variety of topics and disharmony here and there, the book is as well knit as many a volume bearing the stamp of a single name. Possibly this is accounted for by the fact that an attempt was made to select only those topics which are uppermost in public interest, which means that not a single contributor has failed to make mention of immigration, the symposium having been held at the time when the present immigration law gave promise of a sharp break with the past. And further, the writers reveal consciously and unconsciously that they are aware of the meagre data available on a number of points and of the fact that the nineteenth century is an exceptional epoch in the history of mankind — exceptional in the growth of population and in its ebb and flow, in the development of transportation, in the occupation of waste lands, in scientific achievement, in mechanical ingenuity, in sanitation, in medicine, in death rates, in international relations, in social and political institutions, and in a host of other matters which are not recorded in the annals of previous centuries.

There is a healthy pessimism throughout, perhaps naturally coming from professional statisticians who deplore the practise of the multitude in ignoring the results of their investigations and in speeding heedlessly past their danger signals. They find difficulty

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in concealing their mortification when they see how lightly legislative bodies regard their painstaking search for facts and precipitately enact laws designed to afford an easy solution for the intricate problems of population. The anthropologists, sociologists, economists, geologists, and statisticians find difficulty in making headway against the strong currents of racial prejudice, international rivalry, ignorance, religious sentiment, and what not.

The six chapters dealing specifically with immigration are written by men whose occupations and training have engendered widely different points of view, which adds immeasurably to the value of the book. We need to know that Fairchild and Goldenweiser are far apart on certain questions of fundamental importance. Mr. Fairchild tells us that "With reference to the relative value of pure and mixed races . . . certain assumptions are justified. These assumptions are taken from biological analogies and are supported by the fact that race is a biological matter . . . that the basic principles of heredity which run through the entire realm of lower organisms must also hold for man." Mr. Goldenweiser counters by saying that "most of the ambitious generalizations so far reached are largely built on thin air, or, at best, on faulty analogies between the phenomena of animal breeding and the biological life of man." Mr. Hrdlicka, who like Mr. Goldenweiser is an anthropologist, is certain that "there is little danger that the American type will be altered for the worse, either physically or mentally, as the result of immigration, so long as we keep out the mentally abnormal or those in other ways undesirable." Mr. Soule, director of the Labor Bureau, gives comfort in his assertion that "any worry about the effect of restricted immigration on the labor supply either is unjustified in the long run from the point of view of the whole community, or indicates a situation which in any case would need to be remedied."

These extracts relating to immigration are indicative of the spirit and purpose of the whole book: to give free rein to the individual contributor, to stimulate research, to avoid dogmatism, and to shed whatever light the facts may generate. The editor and contributors are to be congratulated upon the conception of their symposium and the results thereof.

George M. Stephenson

University of Minnesota

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

# BOOK NOTES

It is difficult to see what precise purpose or demand Lothrop Stoddard has served by his book, *Social Classes in Post-War Europe* (New York, Charles Scribner's Sons, 1925; vii, 178 pp.). It might fairly be described as an impressionistic social travelogue and as such it tends to aggravate the student reader by its sharply contrasted blacks and whites and absence of shading. The author believes that "the rise and fall of classes in the social scale is, in fact, one of the best tests of the true significance of changing conditions . . . and . . . a valuable indication of the underlying trend of the times," and he therefore describes from his own observations the peasants, the urban working classes, the middle classes, the intellectuals and the upper classes of post-war Europe. He disclaims the rôle of prophet, however, and leaves his reader pretty much to his own devices in the discovery of "the underlying trends," although he strongly suggests that there is considerable danger of Europe's relapsing into a new "Dark Age," and that the present tendency is for industrial and urban society to be supplanted by agricultural and rural. Dr. Stoddard naturally finds that he cannot talk about one class on a European scale without a good deal of qualification and exception, yet any reader who has visited Europe at intervals since the war will want to add more. When he speaks of dwindling city populations, for instance, one can grant him Leningrad, but one remembers also the huge housing projects of Vienna, Amsterdam, and of English, French and even German cities. Statistics, too, would be welcome to support the assumption that loss of manufacturing primacy means industrial decline, for it would appear that Great Britain, for example, is holding approximately her pre-war share of world trade and Germany's industrial revival is notorious. Again, it seems a pity to speak of "millions" of unemployed in Britain, to give a limited and therefore false impression of the New Economic Policy in Russia, practically to ignore the rôle of a considerable body of the Russian intelligentsia and technically trained middle class in the revival of industry and trade in that country, and to mention the well-known handicaps under which European universities are laboring without adding that they are crowded with students as never before. The reviewer cannot escape the impression



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that the author uses evidence from the darkest days of 1919 and 1920 to make his point and then understresses or omits mention of the gradual and often quite remarkable revival of the last five years. No doubt it is difficult for most of us in North America not to be sympathetically patronizing toward the Europe which staggered out of war in 1918, but about once a century since the end of Rome Europe has weathered the exhaustion of widespread war and she has the brains, the energy, the learning and the tradition to enable her to make a fair job of doing it again, even if she must go on paying for the funds which she tossed into the flames of the greatest war in her history. While it is hardly a typical extract, it is hard, in closing, to refrain from quoting a sentence whose reception in the Germany which it purports to describe can easily be imagined. "The *Gelehrter* has become little better than a starveling scarecrow, an object of pity or even of contempt, but certainly not of respect or admiration." This may be vigorous journalism, but it is scandalous untruth.—J. BARTLET BREBNER.

Rochus Schmidt's intimate biography of the first Imperial Commissioner and second Governor of East Africa—*Hermann von Wissmann und Deutschlands Koloniales Wirken* (Berlin, Hermann Klemm, 1925; 131 pp., 119 illustrations, 4 maps)—affords an excellent orientation to the early history of Germany's most important former colony, now Tanganyika Territory under British mandate. Written by a contemporary, himself a colonial pioneer, it presents the observations of a compatriot in the same interesting, flowing narrative style employed by the author in *Aus Kolonialer Frühzeit*, a description of his own colonial activities, published in 1924. The first half of the book, devoted to Wissmann's preparation for his colonial service, describes in detail and with the aid of many pictures his three journeys of exploration in Africa under the auspices of the Society for African Exploration. But the second half, dealing with his administration of the colony, contains more of value for historians. For here some light is shed upon those rather shadowy, early years of German colonial history, upon Bismarck's attitude, upon the native uprisings, upon the failure of the German East African Company and the consequent entry of the German government into *Kolonialpolitik*. Like hundreds of similar books published in Germany during and since the war, this little volume is a witness to Germany's vital interest in colonies and to the efforts of the colonial leaders to keep that interest alive.—MARY E. TOWNSEND.

Three large volumes entitled *Diplomatic Correspondence of the*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*United States Concerning the Independence of the Latin-American Nations* (Selected and arranged by William R. Manning, Publications of the Carnegie Endowment for International Peace, Division of International Law. New York, Oxford University Press, 1925;—3 vols., xxxii, 2228 pp.) contain all of the important documents bearing upon the relation of the United States to the independence movement in Latin America which could be found in the archives of the State Department—communications from the United States to its diplomatic agents in Argentina, Brazil, Central America, Chile, Great Colombia, Mexico, Peru, Uruguay, France, Great Britain, the Netherlands, Russia, and Spain; communications from the diplomats of the United States residing in these several countries; communications from the State Department to the diplomatic agents of these countries in the United States; and even some of the communications exchanged between the Executive and the Congress of the United States. Altogether there are 1191 documents. They throw a flood of light not only upon the foreign relations of the American peoples but upon the internal history of Latin America as well. Perhaps nothing is more impressive than the pathetic confidence with which the insurgents of the South turned to the United States for aid and counsel in their struggle for independence. The caution with which the United States Government moved towards recognition and the Monroe Doctrine is equally impressive. Dexter Perkins had already shown, to his own satisfaction at least, that Monroe assumed little risk in the promulgation of his message in December, 1823. The documents now published by Dr. Manning indicate that John Quincy Adams *knew* that little risk was being assumed. It is interesting to note, also, the further evidence presented of the rivalry of the United States and Britain in the Western Hemisphere during this early period, as well as the new light which the documents throw upon the Florida controversy and the Panama Congress. Lastly, the careful reader will perhaps find nothing more interesting than the views regarding Bolívar held by some of the diplomats of the United States. Like Washington, and even to a greater extent than in the case of Washington, the Liberator's popularity decreased during his declining years. Dr. Manning's arrangement and editing of the documents approximate perfection. With a comprehensive index, a complete list of documents, editorial notes almost perfect from the standpoint of precision and convenience, and few misprints, the work is a model of its kind. In brief, this is the most significant collection of documents bearing upon Latin-American

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

diplomacy which has appeared since the famous collection of Calvo. And yet, it only creates a hunger for more. Would it be possible for the same Endowment to subsidize the publication of a similar selection from the Public Record Office, London, bearing upon the same subject and period?—J. FRED RIPPY.

In this materialistic and practical age, students of international law are more inclined to seek the latest edition of modern authors than to delve into the profundities of the classics. The supplanting of Latin and Greek by "commercial" Spanish, French and German are merely indications of the same intellectual attitude. The Supreme Court of the United States has said that it looks to the works of jurists and commentators "not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is." [The Paquete Habana (1900), 175 U. S. 677, 700.] But the present zeal to "codify" international law, even when the term is used in the sense of a restatement only, necessarily leads one to consider the "ought" as well as the "is". Students of international law must therefore feel peculiar gratitude to the Carnegie Endowment for International Peace, which, under the scholarly and able direction of Dr. James Brown Scott, is making readily available English translations of the classics. Alberico Gentili's *De Legationibus Libri Tres* (New York, Oxford University Press, 1924; 2 vols.: 38a, 231; 37a, 208 pp.), being number 12 of the series, is a worthy fellow of those already brought out during the last few years. As in the past, the Endowment prints a photographic reproduction of an early edition, an English translation, and an introduction. To these is added an index of authors cited, by Herbert F. Wright. The excellent translation is by Gordon J. Laing and the illuminating introduction by Ernest Nys. The practical-minded may well take note that as Grotius wrote as attorney for the Dutch East India Company, so the Italian jurist Gentili, Professor of Roman Law at Oxford, was legal adviser to Queen Elizabeth's Council who in 1584 decided that the conspiring Mendoza, Spanish Ambassador at London, could not lawfully be put to death; in the following year Gentili produced his work on Embassies. One may rejoice that a lack of facility in reading sixteenth-century Latin is now no bar to perusing Gentili's contributions, even though one is not ready to agree with the learned author himself who describes the book as "Useful and very necessary for all students of all classes, but especially in the reading of Civil Law."—PHILIP C. JESSUP.

The polite fiction that all scholars read Latin with ease will not

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

prevent students of English legal history from welcoming the publication of a satisfactory translation of the essay which Selden wrote as an explanatory appendix to the first printed edition of the medieval commentary on English law known as *Fleta*. A recent volume in the Cambridge Studies in English Legal History entitled *Joannis Seldeni ad Fletam Dissertatio* (Cambridge, The University Press, 1925; lxvi, 204 pp.) contains the Latin text of Selden's essay as first published in 1647 (with misprints corrected), a parallel English translation, explanatory notes and a critical introduction by Mr. David Ogg, Fellow and Tutor of New College, Oxford. Because of its convenient size and the importance of its main subject—the influence of Roman law in medieval Europe—the *Dissertatio* was chosen to represent its erudite author in the valuable series of studies which Professor Hazeltine is editing at Cambridge. In his scholarly and useful introduction Mr. Ogg, in the light of modern historical investigation, supplements Selden's treatment of a number of topics, notably the general influence of Roman law upon English legal and constitutional principles. He believes, with Selden, that the supremacy of the common law was never seriously endangered after the reign of Edward II, and that Maitland, in his *English Law and the Renaissance,* somewhat exaggerated the menace of a reception of the civil law in the sixteenth century.

In the second volume of his history of the world, published under the title *Weltgeschichte: Vorlesungen gehalten an der Universität Berlin 1896-1920. Zweiter Teil: Das Mittelalter* (Berlin, Otto Stolberg & Co., 1925; 845 pp.), Professor Hans Delbrück traverses the period from Constantine to the first half of the fourteenth century. One would expect from the author a well written narrative, based upon an adequate knowledge of the sources and literature of the period, and presenting a carefully thought out interpretation. In this Professor Delbrück, within the limits which he has set for himself, does not disappoint the reader. The volume is the product of years of study, reflection, and teaching; the ripe summing up of the thought of a great scholar, balanced, restrained, dignified. For the author the struggle between papacy and empire offers the key to the understanding of the history of the Middle Ages, and it is, therefore, around this that he builds his story. *"Christentum und Deutschtum"* form the dual base upon which the life of the time has developed. In the early chapters much space is given to the development of the thought and the organization of the Church, relatively less to the story of the early Germans, in which some of the myths regarding

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the character of these "children of the forest" and the nature of their invasion of the Roman Empire are rather summarily disposed of. From the time of the breakup of the Empire of Charles the Great the discussion is confined almost wholly to the Empire and its relations with the Papacy. France, England, northern and eastern Europe are treated only briefly and incidentally to what is considered the main stream of history. The treatment is almost wholly of political events and constitutional developments. Nearly a whole chapter is devoted to Henry VI, approximately two pages to the Friars. Schools pass almost completely without mention; social and economic factors receive only the briefest treatment. There is nowhere a discussion of manorial or gild life and organization. There is in chapter xxiv a very good brief treatment of the constitutional factors involved in the growth of towns in the Middle Ages, but nowhere do we glimpse the life of the people. They are at best but vague shadows hovering at the back of the stage while emperors, popes and kings play their parts before the footlights. There are a few minor statements here and there with which the reader may wish to take issue, but they are not important and a volume such as this is not to be judged on any such basis. The only fair criticism is whether the author adequately interprets the period as a whole. While one must recognize the careful and judicious character of the narrative, one cannot but feel that the period would have been more adequately interpreted had relatively more space been given to social and cultural factors.

In *The Grain Supply of England During the Napoleonic Period*, by W. Freeman Galpin (University of Michigan Publications: History and Political Science, Vol. VI; New York, The Macmillan Company, 1925; xi, 305 pp.), we have one of those tragedies that line the rocky road to the doctor's degree in history, an enterprise of research broadly conceived and conscientiously executed, eventuating in nothing much. Professor Galpin exhibits in his text and in his bibliography a range and an intensity of exploration that deserve recognition, commendation and great results. The last of these did not come. Although Professor Galpin combed the archives of three governments and the newspapers of half a dozen countries, he arrived only at the somewhat banal result, that under the pre-existing and currently developing conditions of the time, the control of the grain trade by Napoleon inconvenienced but did not conclusively weaken Great Britain. Something more might have been done. If the author had cast off the biographic spell under which students of the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Napoleonic period seem to labor, he might have related Napoleon's plans and purposes in the control of the grain trade to that larger war after the war which resulted in the breakdown of the old mercantilism and the modification and ultimate repeal of the navigation acts. At least twice he evades the larger political and social implications of his study, by postponing the study of "the Licence System in its larger aspects" (page 122), and by passing over the relation of the food-supply problem to the Luddite riots (page 79). The interesting relationship between the Industrial Revolution and the grain trade suggested by Bowden's *Industrial Society in England towards the End of the Eighteenth Century* is passed over with a few casual allusions and assumptions. Another phase of the book's significance that does not fully develop between its covers is its relationship to the interesting series of studies which were begun some years ago in the seminar of Professor William E. Lingelbach on the commercial policy of Napoleon and which are gradually being published in scattered ways. Numerous appendices embody practically all the data upon which the book is based. The bibliography is prefaced by a statement that indicates some concern of the author with the methodological aspect of the problem, but also a certain abandonment of it. It is difficult to recognize the validity of the distinction between contemporary books as "printed sources" and slightly later books as "secondary material." The bibliography is, unfortunately, "critical," which means that it has conformed to the pedantic standard which in some mysterious way has become integrated with the rest of the administrative impositions upon the budding scholar, and contains dogmatic subjective judgments, "suggestive and scholarly," "illuminating and valuable," "a very careful and well-written work." On the whole, the thesis seems less interesting and suggestive than the author's article in the *American Historical Review* for October, 1922, on "The American Grain Trade to the Spanish Peninsula, 1810-1814," which seems to have sprung from the same materials.—F. L. NUSSBAUM.

Professor S. F. Platonov is a distinguished Russian historian who rose from humble surroundings to a professorship of history at the University of St. Petersburg and a tutorship in the grand ducal circle. His major researches lie in the period from the beginnings of Russian history down into the seventeenth century where he is recognized as an authority. The work under review, *A History of Russia* (New York, Macmillan, 1925; vii, 435 pp.), is an able translation of Platonov's text-book as it was written for Russian

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

students, possibly of the gymnasium grade. It covers the history of Russia from the beginnings to the Bolshevik Revolution, devoting about half of the space to the period down to 1676. This part of the work appears superior to the rest of it. The author traces the political, economic and cultural consolidation of the great Russian nation with a wealth of detail which should be most interesting to the Russian student, but which may be a bit confusing to the average American undergraduate. Those who are already acquainted with the major lines of this period, will find here the author's masterly weaving together of a large number of major and minor researches. Such a synthesis can be used as a handy reference. The last half of the text-book deals with the period from 1676 to 1918 and traces the formation of the Russian Empire. The author puts the stress increasingly on political development of a conventional character and devotes little space to the period after the Crimean War, giving only four pages to the Reign of Alexander III (1881-1894) and nine to that of Nicholas II. It surprises one to note that the foreign policy of Russia from the Russo-Japanese War to the World War has been entirely ignored. The American student is likely to find the last half of the text-book less useful. The last quarter of it is covered as thoroughly or even more thoroughly in the better college texts or reference works in English on modern European history. Whether the text-book under review is adaptable to use by the American undergraduate or not, only actual class-room experience will tell. In its favor are the mature and undoubted scholarship of the author, the fact that few good texts are available, and the excellence of the translation, but against it is the fact that it was written for Russian students whose preparation and knowledge must necessarily be different from that of our average American undergraduate. It would appear to the reviewer that a successful text would stress the main historical tendencies, leaving out much of the unnecessary detail now included in the earlier periods of Russian history, and giving more emphasis throughout to economic and cultural development, as well as to Russia's position in the world.—ROBERT J. KERNER.

"We are in the habit," writes Professor Frank Lawrence Owsley in his *State Rights in the Confederacy* (University of Chicago Press, 1925; x, 290 pp.), "of ascribing as the causes of the failure of the Confederacy the blockade, lack of industrial development and resources, breakdown of transportation, inadequate financial system, and so on, all of which are fundamental; yet, in spite of all these,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

If the political system of the South had not broken down under the weight of an impracticable doctrine put into practice in the midst of a revolution, the South might have established its independence." To demonstrate this thesis, the author gives in detail the attempts of the various state governments to exercise their sovereignty. The far-flung frontier and the possibility of attack made the states nervous as to their own safety and left with them a continuous desire to maintain sufficient troops and adequate supplies for their own protection; consequently, in time of grave Confederate need, men and equipment were often lying idle in the states as a proper home guard. Nor was this the only manner in which state rights interfered with the army; in many cases state executives wished to exercise a certain amount of control over its management, such as the appointment of officers, supply of equipment and management of enlistment. Thus from the beginning military activity was hindered. This interference became more bitter as the Confederacy found it necessary to resort to the sterner measures of war. When it became imperative for the central government to adopt conscription, to impress property to obtain supplies, and to suspend the writ of habeas corpus in order to prevent the breakdown of the social order, the fury of men like Governors Brown of Georgia and Vance of North Carolina broke forth. They, and many others, used all their ingenuity to flout the Confederate authorities in their earnest attempts to carry on their difficult task. Professor Owsley has produced an authoritative, well-organized account of the struggle between localism and centralism in the South during the war; and in addition he has given valuable details in regard to the economic history of the Confederacy with special reference to the sources of supply and the attempts to develop transportation. But his main thesis is not convincing. He has set forth the manifold complications caused by the local factiousness; but even their multitude does not prove, to the reviewer at least, that, had there been united effort, the blockade would have been a failure, the Mississippi would have been held, Davis and his Cabinet would have been better organizers and administrators, the South would have had an adequate industrial and transportation system, and independence would have been won.—Roy F. Nichols.

*Canadian History, a Syllabus and Guide to Reading,* by Professor Reginald G. Trotter of Queen's University (New York, Macmillan, 1926; xii, 162 pp.), should prove a useful compilation as far as it goes. Part I is a classified bibliography which includes the better known general and special histories which the ordinary student

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

would be apt to consult, and also lists the principal handbooks, periodicals, "transactions" and bibliographies which would be the starting-point for more detailed researches. Part II is a typical syllabus, in somewhat detailed outline form, with extensive references. While on the one hand this bibliography is more elaborate than necessary for ordinary class use, on the other hand it is by no means exhaustive. The most serious disproportion is in the almost total neglect of French titles. Barely a hint of the voluminous and painstaking contribution of French Canada is given. At the same time the titles in English represent works of very uneven value, for much of Canadian history-writing, unfortunately, is as yet pure journalism.—A. G. DEWEY.

The authors of *The Secret of High Wages* (New York, Dodd, Mead & Co., 1926; 124 pp.) are two young engineers, Bertram Austin and W. Francis Lloyd, who left England and came to America to discover the secret of high wages in industry, coupled with low cost of production, and took back nine maxims of industrial management, each of which is supported by a number of convincing illustrations. Many parallel cases could just as easily have been found in England to illustrate these principles, but unfortunately, wages proportionately as high as those paid in America do not obtain there. When, therefore, the authors confidently state that "the Secret of High Wages lies in the adherence to the principles," it is evident that much more lies behind the question than they have discovered. An inquiry into the coal, textile, clothing and building industries in America would have shown how easy a fallacy it is to take examples from successful industries and to assume that the conditions operative there can be made the basis of success in other industries or countries when economic conditions are very different. There may be, for instance, a close correlation between the incidence of high wages and the degree of mechanization in the motor industry, but in an older industry equally mechanized, as is the case in watches, the association does not necessarily exist. The whole question of high wages and low costs of production seems to have been approached from an engineer's point of view. The mechanical aspects present in a group of prosperous activities have been clearly presented. But the industrial situation as a whole has either not been studied or phases which do not fit in with the author's theories have been omitted. Not until the concluding chapter is reached do the authors approach anywhere near a real statement of England's difficulties. On page 109 they plead: "If employers would decid

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to assist workers to achieve their objects, and if workers would assist employers to make their profit, both would find that production would increase and wages would rise. This new spirit in industry can only be brought about if each side convinces the other of its genuine desire to cooperate for their mutual benefit." Unfortunately, beyond the pious hope that such an attitude may be attained, there is no clear contribution towards the development of this end.—G. H. MILES.

It was the panic of 1907 which gave the impetus to the movement that finally resulted in the enactment of the Federal Reserve Act. And it was the Great War that hurried into being the system provided by that act. Then followed more inflation, succeeded by the inevitable deflation with all the economic complications and disturbances that these developments imply. It is not to be wondered at, therefore, that the measures and policies of the Federal Reserve System have become the subjects of bitter controversy. And so it is decidedly advantageous to the student to have a calm telling of the story by one of the "insiders". We get such a story in W. P. G. Harding's *The Formative Period of the Federal Reserve System* (Boston and New York, Houghton Mifflin Company, 1925; vii, 320 pp.). Mr. Harding was not only one of the original members of the Reserve Board, but for the last six years of his eight-year term he was the Governor of the system. During the deflation period Mr. Harding was made the personal target of senatorial and other critics attacking the system. In his book, however, he writes without malice or bitterness, and while it is natural that he should endeavor to justify the Board's policies, he avoids self-laudation. His exposition of the problems which confronted the Board and of the means by which it sought to solve them is temperate, straightforward and convincing. There are very few students of banking in the United States who are not entirely satisfied that Mr. Harding and his colleagues did the best that they could with a terribly difficult and trying situation.—E. E. AGGER.

In his study of *Municipal Budget-Making* (University of Chicago Press, 1925; xiii, 233 pp.), R. Emmett Taylor has attempted to survey actual budget procedure in a number of leading American cities. His volume is valuable not only for the descriptive material it contains, but also for an analysis of such variations in procedure as appear.—S. C. WALLACE.

It was to be expected that as a result of the confusion injected into economic relations by the inflation of money and credit incident

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to the Great War, many thoughtful persons previously not greatly interested in the subject of money should be attracted to it. It was probably equally natural that a host of supposedly original remedial or reform suggestions should be offered by the newcomers into the field with all the enthusiasm and naïve assurance that is apt to characterize fresh intellectual discovery. But most of these suggestions leave the trained economist, familiar with the intricacies and difficulties of the problem, cold and skeptical. He realizes that they have either appeared in one form or another a dozen times before, or that they rest on an inadequate analysis and an insufficient understanding of economic life as a whole. Despite the rather strong claim of the publishers that it constitutes a "new principle calculated to revolutionize theories of currency," *The Interest Standard of Currency* by Ernest Dick (Boston and New York, Houghton Mifflin Company, 1926; xii, 286 pp.) must be classified among the well-intentioned but futile schemes of the amateur reformers. Dick believes that money can be stabilized by maintaining fixed discount or interest rates, and in his book he attempts not only to prove the certain efficacy of his own scheme but also to show the weakness and practical impossibility of Fisher's, of Keynes's, and of other stabilization proposals. While Mr. Dick has a certain facility of expression, his book is poorly organized, his general economic theory is vague and confused, and, because of this faulty theoretical foundation, the exposition of his own scheme is weak and unconvincing.—E. E. AGGER.

In *The Economic Problem* (New York, Longmans, Green and Co., 1925; xii, 417 pp.) Mr. R. G. Hawtrey, well known because of his excellent books in the field of money and credit, has gone far beyond the narrow limits of this special field, to analyze and to interpret the socio-economic problem as a whole. The present volume is not a new work on economic theory. There is, of course, much theory in it, but it was not because of this that the book was written. Mr. Hawtrey's theory is, in the main, not greatly different from that which has long been associated with English economics. Wherein his book is new is in its philosophical sweep—its calm inclusion of psychology and ethics in analyzing, interpreting and appraising the procedure, the forces and the activities which taken together constitute modern economic life. To those who enjoy such a philosophic consideration of the economic phases of social organization, Mr. Hawtrey's book may be commended.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED